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employment of firemen on diesel
locomotives in freight and yard
service on the Canadian Pacific
Railway

Proceedings 1957
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**ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY**

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PROCEEDINGS



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- 6010 -

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ROYAL COMMISSION ON EMPLOYMENT OF
FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at Ottawa,
Ontario, Wednesday,
May 29, 1957

PRESENT:

Hon. R. L. Kellock,	Chairman
Hon. C. C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A. R. Winship,	Asst. Secretary

APPEARANCES:

D. W. Mundell, Q.C.,	Representing the
C. J. A. Hughes, Q.C.,	Commission
I. D. Sinclair,	Representing the
Allan Findlay,	Canadian Pacific Railway Company
David Lewis,	Representing the Brotherhood of Locomotive Firemen and Enginemen

Wednesday,
May 29, 1957.

43rd DAY

MORNING SESSION

---The Commission resumed at 10.00 a.m.

D. R. COLPITTS, recalled.

MR. LEWIS: Mr. Chairman, as Exhibit 224 I would like to file a sketch which is headed in the top left-hand corner "South hump and north hump section, Winnipeg yards."

EXHIBIT 224 -- Sketch, south
and north humps,
Winnipeg.

BY MR. LEWIS:

Q Mr. Colpitts, what is the point that you planned to draw to the Commission's attention through Exhibit 224?

A The point that I will endeavour to place before the Commission is the fact that we have both a north and south hump as outlined here and the number of movements that could work through this territory or converge to this territory from other directions of the humps, that is from east or west to either the south hump or the north hump.

Q I understand that these humps are manually operated, they are not automatic?

A No, they are not; they are manual.

BY HON. MR. MARTINEAU:

Q Are we still in Winnipeg?

A Yes, sir.

BY MR. LEWIS:

Q For the purpose of illustrating what

you have just said would you outline some of the movements that might occur?

A Well, as outlined on this sketch, you will see to the left of the south hump and the north hump we have a west departure yard and west arrival yard. That is to say, all trains that will leave the Winnipeg terminals for the west will leave from that west departure yard, and all trains arriving in Winnipeg will arrive in the west arrival yard.

From the west arrival yard trains are shoved with the yard engine facing east. The yard engine at the west end of the track will shove eastward over the south hump the drag that he is going to hump. They will cut the cars off singly or maybe three or four at a time to be classified in the east departure yard.

The same takes effect on the east portion of this yard which is N yard all told. We have the east arrival and east departure. That is to the right on the sketch.

As you will see, the east arrival track is numbered 1 to 8. No. 8 is not used as an arrival track, so we go to 7.

Trains coming from the east will

enter the yard and pull up to the north hump, that is in a westerly direction. The yard movements of course will be with the engine cab first.

Q The engine always facing east?

A The engine always facing east. Road movements, that is to say road trains or freight trains coming in, in that case the nose of the engine will be facing west.

Q All right, then suppose with that general description you take a movement from the east arrival yard or the west arrival yard or both and illustrate what you have in mind when you suggest movements take place from various directions at the same time?

A Well, if we had a movement, an arrival from the east, for instance, in the east arrival yard, it would possibly be out of Track No. 1 or Track No. 2. The trainman after pulling into the yard would cut the engine off clear of the lead, that is the north lead of the arrival yard. He would line the switches and pass the signal to proceed forward.

As you will note, at the converging point there is a switch which allows this engine to proceed from the lead to

the south hump track proper, or the north hump track proper I should say. The trainman will also see that that switch is lined.

At this point I would like to draw your attention to the crossover marked "A". The movement from the south hump --

BY THE CHAIRMAN:

Q Wait a minute, please. You started by taking the movement from the east arrival yard?

A Yes, sir.

Q You are now down to the south hump; I am not following that.

BY MR. LEWIS:

Q Where have you left the engine?

A I have left the engine at the switch at the north hump, or the north lead eastward of the arrival yard.

BY THE CHAIRMAN:

Q The engine is alone, it is light?

A Just the light engine.

BY MR. LEWIS:

Q Mr. Colpitts, if you do not mind would you just continue with the engine? Where is the engine finally? What is the engine's final destination in the yard?

A The engine's final destination in the yard will be to proceed to the north

hump, proceed further to the north hump where it is marked "North Hump" on the sketch.

Q Perhaps I did not make myself clear. What will be the final destination in the yard? Let me lead you by suggesting that if it is a diesel engine then it will want to land eventually on the diesel shop track, which is in the north-east corner of the sketch?

A That is correct.

Q If it is a steam engine it will want to land finally on the steam shop tracks which are shown toward the bottom of the sketch?

A That is right.

Q You are taking this engine to either one or other of those places?

A I am taking the engine to either one or other of the shop tracks.

Q Suppose for the moment that it is a diesel engine, would you just describe how you would land it on the diesel shop track?

A All right. I will come to the north hump shack, which is indicated on the sketch, proceed down to the north lead to the right, to the northwest yard lead, which is the top line, the last line at the top of that lead.

BY THE CHAIRMAN:

Q That is at the top of the west departure yard?

A Yes, sir.

Q Can we call that the northwest lead?

A Yes. At the switch at the northwest lead from the north lead on the north hump -- the switch is on the fireman's side because the engine is headed west and the engineer will be on the north side of the engine. The trainman will throw that switch and your movement then will be in reverse eastward through to the switch, the next switch which allows you to go through the north track on this sketch in the backward movement.

BY MR. LEWIS:

Q And over to the --

A Over to the diesel shop tracks.

Q Now then, Mr. Colpitts, there is a blank space shown over the hump going north and south with a word which was intended to be "Walkway"?

A Yes, that is a walkway there.

Q It is not very legible. It starts just at the east end of the rectangle designated as the yard office?

A Yes.

Q And goes down?

A Yes.

Q What is that?

A That is where the employees of the roundhouse, the RX yard, which are at the bottom of the sketch as shown here; that is the repair yard, and the grain men from the grain inspection depot, which is the rectangular building here on the right; all the employees go across this walkway, up the stairway over the humps to their respective places of operation.

Q They just cross the tracks up there to wherever they have to go?

A There is continual traffic of employees walking back and forth over the north and south humps.

Q You were talking about throwing the switch when you crossed over the north hump and along the north lead of the west departure yard and onto the northwest lead. There is a switch taking you from the north lead to the northwest lead which you say is on the fireman's side?

A That switch normally is lined for the north lead from the south hump to the northwest lead so that that movement is completed without a stop provided there are no other movements such as a yard movement with the engine facing

east toward one of the tracks off the north lead. This yard movement could be in there tying up a track or it may have gone in for a cut of cars to be transferred to another track in the departure yard. I have seen two engines at a time in this area.

Q That is the west departure yard?

A Yes; performing one service or another of that kind.

Q How many tracks are there in the west departure yard?

A There are 17.

Q The bottom figure below that line with the arrow is intended to be 17?

A Yes, sir.

Q And in the west arrival yard what is the number?

A The number --

Q 35, is it?

A There is 20 there and then it goes to 35.

Q From 20 to 35?

A Yes.

Q So that the total would be 16?

A Yes.

Q Sixteen tracks?

A Yes.

Q In the arrival yard?

A Yes.

BY HON. MR. MARTINEAU:

Q Did you say that during this movement the engine was facing east?

A Right. The engine coming in is facing east, yes, sir -- west, I should say; I am sorry. The engine, the road engine coming in is facing west.

BY MR. LEWIS:

Q The engine on the train from the east at the arrival yard is merely cut off from the train. It would come in facing west and it continues heading west until it lands in the diesel shop. It is taken into the diesel shop along the north track.

Then suppose you had a steam engine arriving in the east arrival yard. Just very quickly, Mr. Colpitts, because I think the Commission members can follow this, without stopping at every switch what would be his route to get to the steam shop tracks?

A He would have to cross both humps. He would come to the same point on the north hump, that is at the north hump shack which is the small square. The crossover switch at the west end crossover is marked "A"; that is at the north hump and it would be lined.

Q Excuse me, it is not the switch that

is marked "A", it is the crossover that is marked "A"?

A The crossover is marked "A" but the switch would be lined on the fireman's side. Then you would continue through the crossover tender first to the south hump. As you will note, there is a switch at the south end of this crossover which is on the engineer's side. You have the movement proceed back over the south hump, which is a single track, straight down the south lead, which is marked "D" to "C" which is the next crossover switch in order to get to "E" which is the RX yard lead.

--

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Q Then he goes along the RX yard lead?

A He proceeds then back the RX yard lead to the
the
point of/cross-over as marked after the cur-
vature, the cross-over from "F" lead to the
running lead. That is in the farthest
extreme of the sketch here on the right.

Q And when he passes that cross-over I suppose
he then --

A He proceeds then engine headed west, that is
to say, the nose of the engine going west in a
forward direction to the shop tracks as indi-
cated on the sketch.

Q Now, while there are these movements which you
have described with the light engines, are
there movements of engines and cars that go
along in these same directions or around there
at the same time?

A There are. First I would like to say there
are movements continuously up and down this
running lead which is just below the round-
house. You will see it marked "running lead".
That is one way you can go from the west of
the yard to the east end of the yard. That
is one way. Another way to get to that point,
they come as you see here marked on the left-
hand side of the sketch at the bottom connect-
ing to the running lead, ice house. You can
come around that lead, around the roundhouse
over the south hump. Very often switching
movements have cars to deliver to the

south hump.

Q Yes?

A As the engines in Winnipeg, the yard engines in Winnipeg are all headed east, invariably you will be shoving cars to the south hump.

Q When you go around the roundhouse the engineer will be to the south and the fireman to the north with the engine headed east?

A That is correct.

Q Yes?

A In further dealing with this I would like to draw one more thing and that is you will see to the left of the roundhouse a track marked "29". We have 27, 28, 29 and these tracks are close to the curvature around the roundhouse. It has happened to me that I have come out of 28, 29, ready to proceed ahead on a switchman's signal and the fireman has alerted me to stop because the switchman being in a position close to the roundhouse as these switches are very close to the roundhouse -- of a movement backing westward around the roundhouse. Therefore the fireman saw it before the switchman did and the switch, of course, was lined back for the movement around the roundhouse so he could pass before I came or we made contact.

Q Who lined the switch?

A The switchman on my movement.

Q Would line it for the other movement?

A No -- yes, he lined it back normally for the other movement to pass first.

Q And could you make any estimate as to how many engines, either light or yard engines with cars or movements you yourself recall seeing at the same time around these north and south humps?

A Well, I can give one example in particular where -- you see, you have road engines, yard engines. In fact, the yard engines I might say are of three different types because they use yard switchers, they use Trainmasters, which are a very big, awkward thing to work in the yard. Your vision at the back is very poor. It is blank. It is a blank wall because of the steam generators behind you. The road switcher, of course, has the longer engine behind you, but I have seen with road engines and yard engines as many as nine engines standing waiting to get through this or get over this north hump. I have counted them.

Q And can you inform the Commission whether from your experience there is a great deal or little movement of people while this engine movement goes on?

A There is quite a movement of people around these north and south humps. What with switchmen and hump riders, yardmasters,

there is quite a number. It would be hard to tell you an exact figure at all.

Q And what then is your comment, if any, to this Commission as to the need or whether you do not need a person on the left side of the engine in this area which you have described?

A In this area with so many engines that can perform so many different duties at the same time and still require passing over the north and south humps the fireman on the left side is definitely a protection to the movement that you are concerned with and the employees that are crossing back and forth at all times.

Q If there are no more questions on that, I should like to file as Exhibit 225 a sketch of a part of the Winnipeg yards which is headed in the top left-hand corner, "East section of 'B' yard".

EXHIBIT NO. 225 -- Sketch of east section of "B" yard.

Q Perhaps I might try to assist the witness with regard to this sketch, Mr. Chairman, so as to make it a little faster. The points that you told me you wanted to draw to the Commission's attention were the industrial switching at the Winnipeg Electric gas works, which is to the left of the sketch -- right?

A Yes, sir.

Q And the switching at the Brown and Rutherford plant which is at the extreme right of the sketch?

A Yes, sir.

Q If you come along with your engine --

MR. SINCLAIR: This is just north of the station at Winnipeg? Is that right?

THE WITNESS: North and east.

MR. SINCLAIR: Right at the east end of the station building and to the north?

THE WITNESS: No, you will see at the far west extreme here is the crossing for Henry Avenue. There is an overpass there.

BY MR. LEWIS:

Q The far west or the far east?

A The far east. It is at the extreme end of "B" yard.

MR. LEWIS: I thought I would let two Winnipegers argue that, Mr. Chairman.

MR. SINCLAIR: I am just trying to find out where we are.

THE WITNESS: You will see a small building --

BY MR. LEWIS:

Q Before you do that, excuse me, Mr. Colpitts, where do you come from onto this section of the yard, from the east or from the west?

A Normally your start will be from the eastward main line.

Q Well, would you start in a part of the yard

just west of this sketch or east of the sketch?

A It is right on this sketch. You see the square at the main lines.

Q Yes.

A I didn't mark that --

Q Do you come onto the sketch from here, which is west, or do you come onto the sketch from here, which is east?

A From the west.

Q How is your engine headed, east again?

A Your engine is headed east on the westward main line.

Q On the northerly of the two main lines?

A That is correct.

Q And do you come with a light engine or do you come with an engine with cars?

A You come in with cars or a light engine.

Q Then, will you deal with the Winnipeg Electric Works first?

A The point I want to bring out here is the fact of the road crossing which is Sutherland Avenue --

BY THE CHAIRMAN:

Q Excuse me, there are three tracks at the south of this sketch. Which is the eastbound main line?

A The second from the bottom, sir.

Q It is the middle one?

A Yes, sir.

MR. LEWIS: The top one is the west-bound.

BY THE CHAIRMAN:

Q And your engine is facing east?

A Facing east, sir.

Q This is a yard engine?

A Yes, sir.

BY MR. LEWIS:

Q You come in from the west until, I suppose, your switch which is marked "A" to the left?

A That is correct.

Q And when that switch is lined for you --

BY THE CHAIRMAN:

Q That is on the westbound main line?

A Yes, sir.

Q But we were told this engine was on the east-bound.

MR. LEWIS: No, I think he said west-bound, sir. He said the engine is headed east and it comes on the westbound main line.

THE CHAIRMAN: Then it is the top one of the three lines, not the middle one.

MR. LEWIS: That is right.

THE CHAIRMAN: The witness just told me he was on the middle one.

MR. LEWIS: I am sorry, sir, but I think he understood you to ask him which was the east-bound main line and he said it was the middle one but he is on the westbound main line which is the northerly of the three, the top one of the three.

THE CHAIRMAN: Oh, I beg your pardon.

Thank you.

BY MR. LEWIS:

Q You come along from the west until the switch marked "A" towards the left?

A Yes.

Q And assume for the moment that you bring some cars. How many cars would you usually bring with you?

A Well, if you had cars for storage you would have four or you might have just two.

BY THE CHAIRMAN:

Q Pulling them behind the engine?

A You would have them on the point of the engine.

Q Pushing them?

A Pushing them.

BY MR. LEWIS:

Q When the switch marked "A" is lined what do you do?

A You will push these cars into the curvature to the left.

Q Yes?

A Straight ahead past the building on the other side of the road crossing which is Sutherland Avenue.

Q Stop there for a moment. This is a protected crossing at Sutherland Avenue?

A One switchman flags this crossing, yes.

Q It has to be flagged?

A Yes.

Q And then I suppose you go up either the west-
erly track, the track which is west of the
building or the track which is east of the
building, depending on the work that you want
to do?

A That is correct.

Q And do you take loaded cars out or empties out
as well as bring some cars in?

A Very often you take out an empty which will be
spotted at the extreme north of the building
indicated here on the west track. That is the
usual spot for these cars that we handle. We
will tie on to the empty there.

Q You still have the two or four cars you brought
with you?

A Yes.

Q You tie on to the empty with these cars?

A Yes.

Q Then you back down again?

A Then we back down over the road crossing again
up to "B". I might add --

Q Up to where?

A "A", I should say, to the switch at "A", and
I would like to add there is a sharp left
curve and an incline as you proceed backwards
on that curve.

Q It is an upgrade going south, is it?

A Yes.

Q From the Winnipeg Electric?

A Yes, it is a very steep grade there.

BY HON. MR. McLAURIN:

Q The prevailing movement is loaded in and empty out?

A A load to go in --

Q Loaded in and empty out. You take coal in?

A That is right.

BY MR. LEWIS:

Q Where in your experience are the signals passed in this switching movement?

A The signals in my experience have been to the fireman.

Q And from your experience why is it done that way? Can it be done any other way?

A The switchmen do not get on top of the coal in the cars.

Q They are coal dumps, are they?

A Yes, they are all coal dumps. As I say, the usual experience I have had is that the fireman takes the signal through here until you reach the extreme end of the building, that is, to the north of the building. Then you stop. The switchman crosses over and then we are ready to spot. That is the procedure I have known and have experienced in that one location.

Q This spotting, I understood you to say, is done on the engineer's side?

A Yes.

Q But getting up there in your experience the signals are passed to the fireman?

A Yes.

Q Can you estimate the clearance between the westerly track and the building?

A Between the track and the building is very close to the engine. There is not too great a clearance in there at all.

Q Can you walk through it comfortably?

A Not comfortably, no.

Q Now, then, we go to the right part of this sketch, Exhibit 225, Mr. Colpitts. I assume that again you come from the west with the engine headed east?

A That is correct.

Q And also on this northerly of the three tracks, the westbound main line track?

A Yes.

Q And do you come in with cars as a rule for Brown and Rutherford, or light?

A Yes, you do.

Q And are the cars again coupled to the nose of the engine?

A Yes.

Q So that you are pushing them along this westbound main line track?

A Yes.

Q And then you push them up the siding into Brown and Rutherford?

A You do.

Q Is that right.

A Yes.

Q And then at Sutherland Avenue you have that crossing there, as well?

A Yes you do.

Q And does that have to be flagged there?

A Yes sir.

Q What is your experience in the signal giving along this siding to Brown and Rutherford?

A It has been on the fireman's side and I would like to also bring up a point here; that on one occasion that I worked this yard there were men working at Brown and Rutherford, employees of Brown and Rutherford, who were working on cars and one of their loading wagons was foul of our movement as

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we approached Brown and Rutherford's yard, and the fireman called my attention to it and we stopped before striking the obstacle there although I did not receive any signal or any indication that there was any confliction with our movement.

Q So that the switch marked "A" towards the left of the sketch and the switch marked "B" towards the right of this sketch, Exhibit 225, Mr. Colpitts, are of course on a main line -- the westbound main line track?

A Yes, they are for the westbound main line track.

Q Do you know whether there is any requirement for those switches to be protected by any of the crew after they have been lined for your movement?

A In my experience the man following the engine, the engine follower stays at the switch.

Q Does he line it back to normal after you have passed?

A Not as I have seen, only if another train comes from the east; that is, from St. Boniface or for the Lac du Bonnet subdivision or the Keewatin subdivision. That is the main line.

Q As I understand you, he stands there at "B" or "A" as the case may be and lines the switch back for you when you back up again and do your switching movement. He lines the

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switch for you and stands there for that purpose?

A Yes. That switch also is on the north side or the fireman's side during a switching movement on that main line.

BY THE CHAIRMAN:

Q How far is it from "A" up to Sutherland Street, the Winnipeg Gas?

A It is quite some distance, sir.

Q That does not tell me anything.

A I really could not -- I would not hazard a guess on it.

BY MR. LEWIS:

Q Check the width of this room?

A Oh no, it is quite far.

Q Can you hazard a guess as to how many times it is the width of this room?

A Rather than doing that I would say it is possibly a quarter of a mile from this point to this point because it is a way around down the yard.

Q This point being?

A From "B" to "A".

Q I think that is not what the Chairman asked you. I do not think the Chairman was interested in knowing the distance from "B" to "A".

A Well --

BY THE CHAIRMAN:

Q From A up to the southside of the building in

D.R.Colpitts

red on this plan?

A Oh, that would be six times the width of this room anyway.

BY HON. MR.MARTINEAU:

Q Would that be about six car lengths?

A Oh, it would be more than that. I would say ten car lengths, from the time you left the switch until you got to the crossing it would be ten or possibly 12 car lengths.

BY MR. LEWIS:

Q It would be roughly 400 odd feet; that is your guess on that basis?

A Yes.

Q Is there anything else you wanted to draw the Commission's attention to on Exhibit 225, Mr. Colpitts?

A No.

Q If not, we can go on.

A No.

MR. LEWIS: If there are no more questions there I would like to file as Exhibit 226 a sketch of a part of a yard which is headed "Whittier Junction" headed in the lefthand top corner.

EXHIBIT No.226: Sketch of part of a yard, headed "Whittier Junction".

BY MR. LEWIS:

Q What is the particular kind of movement you want to illustrate with Exhibit 226, Mr. Colpitts?

A This sketch will show the procedure to

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D.R.Colpitts

turning coaches that have come from the depot to be turned and returned to the depot.

Q And you sort of go around a "Y"?

A Yes, you turn them around this "Y", as Whittier is a "Y" for the turning of coaches.

Q Then suppose you start us on the movement -- not every detail -- but so that the Commission can follow you. How you carry it on.

You come from where? By the way -- excuse me, Mr. Colpitts -- members of the Commission will notice that the top of this sketch is west, not north, and that the bottom of course is east and that north is the right edge of the sketch.

A You come from the west in the top right corner.

Q You come over the bridge, over the Red River, is that correct?

A Yes, and in the top right corner you have the two main lines crossing the bridge. The one to the left is the eastward main line and the one to the right is the westward main line. In this move --

BY THE CHAIRMAN:

Q Now, which one are you on?

A I am on the eastward main line, the one to the left.

Q With what kind of an engine?

A You have a yard switcher.

Q And how is it facing?

A Facing east. You are pulling your cars.

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That is, the cars are at the back.

MR. LEWIS: When you are coming from the north, how is your engine facing?

THE CHAIRMAN: You mean, coming down from the west?

MR. LEWIS: Yes, I am sorry.

THE WITNESS: The engine is facing east, proceeding east on the eastbound main line. You will see the first track branching off the main line is the main line to Emerson as indicated by the buildings there. It is written in, "Main line to Emerson".

BY THE CHAIRMAN:

Q Are you getting on to that one?

A Yes.

BY MR. LEWIS:

Q You cross Archibald Street which is protected by gates?

A Yes, it is.

Q So that there is no flagging there?

A No.

Q You go right on the main line to Emerson?

A You go around the right curvature. You still proceed further. You are now travelling south under the Canadian National Railway overpass as indicated here by the square and the Canadian National Railways main line going across. You pass under the overpass over Mission Street.

Q Is that protected?

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A That is flagged.

Q Yes?

A You proceed further south until you clear your tail end. That is, the last coach on the train that you are pulling southward with your engine headed southward. There are two signals, / one signal to the Emerson main line on the Emerson main line which is below the overpass. They are under the overpass.

Q Is that the one marked "A"?

A Yes, it is in that location under this overpass with a square that is shown on the sketch.

I would like to say that the curvature from Mission Street to the left of this sketch is more severe than is indicated here. It is a distinct left curvature.

Q Yes? Then you stop when you --

A When you clear the signals under the overpass you get a stop signal.

Q Those signals, by the way, are automatic? They are interlocking?

A Yes.

Q They are controlled by a signal tower?

A Yes, by the signal tower at Whittier Junction.

Q And when you have cleared that signal you stop is that right?

A That is right.

Q And you are coming -- Who receives the stop

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signal in the engine cab? Who receives it first?

A Fireman usually receives this signal first.

BY THE CHAIRMAN:

Q Why is that?

A As you come around --

Q Why is that?

BY MR. LEWIS:

Q Why is that?

A It is a left curvature, as I said, from Mission Street southward and beyond Mission Street is a more severe left curvature, and you can see the point of the movement from the fireman's side.

Q The point of the movement being?

A Where the cars have stopped clear of the signal.

BY HON. MR. MARTINEAU:

Q But where is the curvature shown on the sketch?

A As I said, sir, at Mission Street to the left of the Canadian National Railway main line or the overpass the curvature should be in there. It is not indicated on this sketch as it should be. There is a sharp left curvature.

BY THE CHAIRMAN:

Q The signal that the firemen see, where is it located?

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A The signal that the fireman sees will be at the overpass.

Q That is to the rear?

A To the left of the overpass.

Q To the rear of the engine?

A Yes sir.

Q And the cars?

A Yes sir. It has often happened that in this yard as marked to the left of this sketch there are cars still up to the end of their track. That is to the right in that yard. They are still up to the right close to that lead.

The man following the engine, or the engine follower, has to drop off approximately a car length on the other side or to the left of Mission Street in order to relay the signal to the fireman to be relayed to the engineer as he will not be able to see the signal at the overpass.

BY MR. LEWIS:

Q Because of the cars on these tracks?

A Yes, on those tracks. It obstructs the vision at the engine.

BY THE CHAIRMAN:

Q I do not see any time when they would be in view of the engine on this track you were coming along?

A No, they are on the fireman's side and that

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is the reason, sir, for the fireman taking the signal.

Q But you spoke about blocking the engineer's view.

A No sir, they block the fireman's view and the head end switchman's.

THE CHAIRMAN: You might find out where the yard crew are, Mr. Lewis.

BY MR. LEWIS:

Q Where are your yard crew stationed?

You mentioned the continuation of the main line to Emerson which would be the top line of the two just right of the section marked "yard". Is that what you are coming along or are you coming along the bottom line?

A We are coming along the top line. That is the Emerson main line.

Q Yes, and you have passed Mission Street?

THE CHAIRMAN: The engine has.

BY MR. LEWIS:

Q The engine has, with the engine facing south?

A Yes.

Q Your coaches behind the engine?

A Right.

Q And the last coach has just stopped clear of the signal under the C.N.R. overpass, is that right?

A Yes.

Q At that point, when you have stopped, where is your crew of three men?

A There are two men on the last coach and the engine follower has come with the engine, but has dropped off because of the cars and poor vision, the obstructed vision by cars in the St. Boniface yard, has dropped off in order that he can relay the signal from the two men who are on the last car in preparation for the back-up movement; that is where the switchmen are.

Q You have two men on the last car and one only is going to relay the signal?

A That is right, to the fireman.

Q When he gets a clear board on the signal under the overpass he relays it to the engine follower who relays it to the fireman, you say?

A Yes.

Q Then, the fireman gives it to the engineer?

A Yes.

Q Is there any reason, I am going to ask you this, why the ground crew could not position themselves west of this track in order to relay signals directly to the engineer in that situation?

A Well, should you pull far enough ahead that the crossing at Mission Street must be flagged, one man flags that and the other gives the signal.

In your back-up movement, we have at the farthest extreme of this sketch, to the right, a crossing which has to be flagged requiring that two men be at that point when they reach that point also.

BY THE CHAIRMAN:

Q That is up at Montcalm Street and Archibald Street?

A There is a crossing that is indicated on the extreme right of this sketch at D, just above D.

BY MR. LEWIS:

Q Would your coaches reach that far?

A That is why there are two on the last car and one halfway between the last car of the movement and the engine; that is how they are positioned.

Q I am sure the Commission is in the same

difficulty I am, Mr. Colpitts. You came down the Emerson main line?

A Yes.

Q What, in that case, can you have to do with a crossing over to the right-hand where D is?

A That is the preparation made for the backward move as we progress, and that is the position of the men with respect to Mission Street crossing and the back-up move.

BY THE CHAIRMAN:

Q Let us deal with the west end of it first. You are asked why the ground crew could not be to the west of the Emerson main line, when your movement gets as far west as it has to go so as to see the signal A and relay it directly to the engineer?

A He would have to go --

Q Who would have to go?

A One switchman on the last car would have to go very far out, away down the street, in order to give the signal to the engineer due to the left curvature.

Q Away down what street?

A Mission Street; he would have to go very close to Archibald in order to give that signal to the engineer. Then, by the time he got back to the coaches again to proceed with the movement, you have more or less lost --

Q May I follow it for a moment. You have at least one man on the last coach, the tail end coach?

A Yes.

Q Now, if he gets to the north of the Emerson line, some place there, can he see the signal A by looking across the track to the east; can he see it?

A Can the man who stayed at the engine --

Q No, you listen to me. You have two men on the last coach, the tail end of the last coach?

A Yes.

Q Take one and put him on the ground?

A Yes.

Q Can he see from that point across behind the tail end of the coaches the signal A?

MR. LEWIS: You really mean west, sir, and you said north.

BY THE CHAIRMAN:

Q He gets off to the west of the track and can he see east across the track to the signal?

A He is on the west side and can he get a signal here and still get an indication to the engineer?

Q No, I am just asking you one thing at a time. If he gets off on the ground west of the track, can he see the signal A?

A At the overpass, yes.

Q Now then, you have two of your yard crew?

A Yes.

Q Where they can be put, and I am asking you can these two be put on the north side of the Emerson main line so as to relay a signal to the engineer?

MR. LEWIS: I am sorry, sir, do you not mean the west side?

THE WITNESS: Yes.

BY THE CHAIRMAN:

Q Now, where will they be?

A I would judge -- I am not a switchman -- but I would judge that one man would stay at the last car and the other would go out a considerable distance on Mission Street to relay to the man following the engine and the engineer.

Q Then, there must be much more curvature on that ground than this plan shows?

A That is correct.

Q You say he must be a long distance out on Mission Street?

A Yes.

Q How far do you say he would have to be out on Mission Street?

A I would say he would have to be at least halfway to Archibald Street, which would be 200 feet anyway up towards Archibald Street to the west.

Q Then, the reverse signal is given, and

this yardman can get on that train, can't he?

A Yes, he can run back.

Q And proceed to the north end to do the switching there?

A Yes.

THE CHAIRMAN: I am sorry, Mr. Lewis, but I could not follow it.

MR. LEWIS: I am grateful to you.

BY MR. LEWIS:

Q May I just ask you, are there or are there not buildings next to Mission Street at the tracks, or is that a clear field north of Mission Street and west of the track?

A No, as you see, that is an overpass. In other words, it is a high line for the C.N.R. Your vision to that point is blocked by the ground being built up to allow the road bed for the C.N.R., and you just can see this underpass; your vision is obstructed farther back.

THE CHAIRMAN: You are being asked about the ground to the south of the C.N.R. main line, I think.

MR. LEWIS: No, to the west.

THE CHAIRMAN: To the south and to the west.

BY MR. LEWIS:

Q As you have described it to the Chairman, Mr. Colpitts, you have one man up Mission

Street, that is west of the main line?

A Yes.

Q You have got another man at the last car?

A Yes.

Q Which would be just south of the overpass, and then, of course, we have your engine follower at the engine towards the south?

A Yes.

Q I just want you to tell the Commission actually what you remember or know about this, is there anything to obstruct the view of the man who stands on Mission Street trying to see or receive the signal from the man who stands at the end car at the overpass?

A Nothing west of the main line.

THE CHAIRMAN: I will put it shortly this way, Mr. Lewis. What we are interested in, and I suppose what we are required to be interested in, is, if there were no firemen could it be done and how could it be done, or could it not be done? It all gets down to that.

BY MR. LEWIS:

Q Your answer to the Chairman's question, Mr. Colpitts, would be that it could be done without needing the fireman to pass signals at this point?

A Yes.

Q Then, after you have got him to the south

on the sketch, you then back up, do you?

A Yes, you back up the Emerson main line to the crossover at B. You back through that crossover, and it becomes now a right curvature, to the signal marked C.

Q And that signal is on the engineer's or fireman's side?

A That signal is on the fireman's side.

BY THE CHAIRMAN:

Q Is that crossover marked on this plan to show how they get over to where C is, which is the most easterly of these three?

THE WITNESS: The crossover I speak of is marked B.

THE CHAIRMAN: That only gets you on to the middle track?

THE WITNESS: That is the track we use.

BY MR. LEWIS:

Q This signal marked C, does that control the middle track?

A Yes, sir.

Q Is that electrically controlled?

A Yes, that is controlled from the tower and protects the two main lines as indicated on the sketch in the bottom right corner.

BY HON. MR. MARTINEAU:

Q C controls which track?

A It controls the diamond or crossing you will make over the main line where this

track crosses the main line.

Q So, it is not in front of the switch?

A No, no.

Q It is north of it?

A It is a signal that is used on the track you are using.

BY MR. LEWIS:

Q Is there anything more of interest you want to draw to the Commission's attention on this move?

A Then, on the extreme right of this sketch you will see marked D, at the corner, following through that same track your line is converging on to the other end or the other leg of the wye to the crossover marked D, and you will then back through that crossover to the Lac Du Bonnet track.

Q When you do that, excuse me for interrupting you, is there or is there not a crossing which is not shown, to the right of the sketch?

A Yes, there is. The first crossing, I am not familiar with the name of it, but the next is Talbot, and it is protected by signals, a wigwag and bell, a rocker arm and red light on it.

Q Are they or are they not flagged?

A The first one is flagged.

Q Then, you come back up the Lac Du Bonnet track, you say, and all the way back to

the depot, right?

A Yes. When you get the signal to proceed, then the head of the engine is turned also, you head west, the engine headed west, and return to the depot on the westward main line.

Q That is the one to the right?

A Yes.

Q In that movement down from A to B and C to D, they are backing **again up** the westward main line, Mr. Colpitts, and dealing now with what your experience has been, is there any section in which the practice has been to give signals to the fireman or not?

A The signals have been given to the fireman because the switchman generally that follows the engine usually stays in the first vestibule available to the engine.

Q Next to the engine?

A Yes.

Q The curve of that track is to the right of the sketch and that would be on the fireman's side because you are backing up?

A That is correct.

Q The fireman would be inside of the curve?

A Yes, sir. The fireman is depended on in this move to ascertain and make sure for the engineer that the signal is clear, particularly the one marked "C", as you are progressing in your back-up movement.

THE CHAIRMAN: Would you mind asking the same question?

MR. LEWIS: Mr. Chairman, every day I get a feeling of greater ignorance of train operation.

BY MR. LEWIS:

Q You will correct me if I am wrong, but I understand you would be controlled going northward by these electrically controlled signals marked "C" so that in that movement at that point hand signals are not involved, are they?

A Not particularly, no.

Q Therefore it is really a question of having someone to observe the signal, to make sure that it is clear, as they go toward it.

MR. LEWIS: The evidence of this

witness is that only the fireman's side of the engine can observe it, that that is where it is, and that the practice has been for the engine follower not to be in the cab of the engine but to be in the first vestibule of the coach attached to the engine.

THE CHAIRMAN: I followed that very carefully, but I bring you back to the point that we are sitting here to consider this: if you did not have a fireman, could it be done or could it not? If it could be done, how could it be done?

BY MR. LEWIS:

Q If the fireman were not there, Mr. Colpitts, could the yardman, who you say has in practice been in the vestibule of the first coach or the first available coach; could he be in the seat where the fireman now is and make observations of that signal?

A I would say he would have to be in the seat or in the cab so that the engineer would get an immediate indication of what is happening on that side.

MR. LEWIS: I will put it this way, Mr. Chairman.

BY MR. LEWIS:

Q Your point is, if I may put this without objection from Mr. Sinclair, that someone has to be on the left side of that cab to

observe this signal for the engineer?

A Yes, sir.

Q It could be one of the yard crew; it is now the fireman?

A (No audible answer)

THE CHAIRMAN: You see, when we come to consider every one of these situations which either side have put in front of us that is the question we have to ask ourselves and therefore we would like to know what the witness has to say.

HON. MR. McLAURIN: I think we should ask one more question. Is there any reason why he should not be in the cab?

THE WITNESS: The switchman? Not that I can see, that he should not be in the cab, no.

MR. LEWIS: Of course if I might make this comment, which I might preface by saying that I do not think anyone in this court room is more appreciative of the opportunities which I have received, and I am sure Mr. Sinclair is equally appreciative; I am sure he cannot be more appreciative, but I think perhaps it is not so much my onus to bring out how a thing could be done. First, because my advisers are necessarily not those who can give me that as much as Mr. Sinclair's advisers are. That is why frequently I stop short of that, feeling quite certain that if

it is of any importance my learned friend will bring it out.

THE CHAIRMAN: I appreciate that, but after all we have to consider what we are sitting here for.

MR. LEWIS: Certainly, I appreciate that. It would be my intention at some point in this inquiry --

THE CHAIRMAN: You feel that Mr. Sinclair should have something to do?

MR. LEWIS: After I have studied all the evidence that has been given there has been built up in my mind an explicit suggestion that this is not a very light problem, that a very considerable amount of re-organization and re-training and what not would be necessary to achieve some of the things that have to be achieved in the operation.

THE CHAIRMAN: But I have put the point correctly from our point of view?

MR. LEWIS: Yes.

THE CHAIRMAN: That is what our attention is directed to in considering all these things.

MR. LEWIS: Yes. I would just say this, without arguing at this point, that there is still left to the Commission -- I suggest this respectfully -- the not unimportant question from the point of view of the Brotherhood that if at any point a person does sit in

the place where the helper has up to now traditionally sat, why should that be sought?

THE CHAIRMAN: Why should what?

MR. LEWIS: Why should he be taken out of the seat and someone put in his place? This is not the time for any lengthy argument, but it still leaves that problem in the minds of the Brotherhood.

THE CHAIRMAN: It leaves it for consideration.

MR. LEWIS: Then finally, Mr. Chairman, and I think I should indicate to the Commission that this is the last sketch of the Winnipeg yard, I would ask to have filed as Exhibit 227 a sketch of some parts of the yard which is headed "Paddington Yard, Stock Yards."

EXHIBIT 227 -- Sketch, Paddington
yard and stock
yards, Winnipeg.

BY MR. LEWIS:

Q In this sketch, Mr. Colpitts, and in order not to take too long on it, as I recall it you wanted to point out two separate kinds of thing. The first one was the switching and spotting of cars at Swift Canadian and Canada Packers and the stock yards; right?

A Yes, sir.

Q And then you had something to draw to the Commission's attention with regard to the Paddington transfer yard, which is

at the south end of this sketch, which again is drawn with the west at the top and the east at the bottom.

BY HON. MR. McLAURIN:

Q It says "Main line." That cannot be the east and west main line, which is it?

A The Emerson main line.

BY MR. LEWIS:

Q That was the same main line we were dealing with before?

A This is continued south from Whittier Junction.

Q It goes down to the Canadian-American border?

A Yes.

Q Deal with the Swift Canadian Company switching first. I suppose you bring empties in and take loads out?

A Yes, we bring empty refrigerator cars, and there the engine is headed south.

Q And are the cars attached to the nose?

A To the back of the engine, the cab of the engine.

Q So you are pulling them?

A You are pulling the cars.

BY THE CHAIRMAN:

Q On the main line to Emerson?

BY MR. LEWIS:

Q You go along the main line to Emerson?

A Yes. We go at the top right-hand corner

marked A, that is the crossover. The top line is the Emerson main line and the second is the working lead. The Swift lead and the working lead are on a curve. That is the track toward the left of the switch.

Q So that when you cross Marion Street you use the crossover marked A and get onto the working lead and you travel south with the cars behind you, pulling them, and then how far do you go?

A You go to B.

Q Then you cross over?

A You cross over again onto Swift's lead.

Q Onto what we have marked as the Swift lead?

A Yes.

Q Right?

A Right.

Q You are still pulling the cars?

A Yes.

Q That crossover is near a roadway?

A Yes, that is the Swift Canadian private roadway.

Q That has to be flagged, I presume?

A Oh, yes; there is a lot of traffic over there.

Q As you are going, all the time the engineer is to the west and the fireman is to the south, in your movement so far?

A That is correct.

Q I mean the fireman is to the east?

A Yes.

Q In your movement so far?

A Yes.

Q Then you would have got onto the Swift lead and presumably you would continue south until you are clear of the switch at any one of the tracks you want to go into at Swift's; is that right?

A That is right.

Q When you have done that you back in?

A Yes.

Q Those tracks are to the right?

A Yes, a right-hand curvature.

Q It is a right-hand curvature on the sketch and because you are backing in that would be on the fireman's side?

A That is correct.

Q That curvature is on the fireman's side?

A Yes.

Q In your experience how are signals given for backing into these Swift tracks?

A The signals are given on the fireman's side.

Q In this case would it be possible for the yard crew to position itself west of this track in order to relay signals to the engineer, or not?

A The switchmen could position themselves

west and give signals, but it is a severe curve and they would be away from the point of the movement to quite some extent.

Q How many cars would you come in there with?

A You could come in there with four empties and in the north track, the farthest north, you could be handling about ten cars.

MR. LEWIS: Mr. Chairman, we have marked for convenience the tracks at Swift's, if the numbers are legible to the Commission, as 1, 2 and 3, indicating the three tracks to the south of the buildings, and 4 and 5 as indicating the two tracks north of the buildings.

BY MR. LEWIS:

Q Is that right?

A Yes.

Q You work on any one of those tracks, do you?

A Yes, you work on any one of those tracks or you can use them all in your one switching operation back and forward.

Q Do you merely place the cars on the tracks or is there any one track on which you have to spot the cars more or less carefully?

A As you take out loads you put back

empties. As far as switching exactly the cars that you take out or put in, you will get rid of your empties where loads have to be taken out and spot back in at that track.

Q Have the empties to be spotted accurately?

A Very accurately there because they have canopies that go over the doorways of the cars from the buildings.

Q The same thing would apply I suppose, the same movement would take place I suppose -- if I am wrong, correct me, Mr. Colpitts, but I am trying to save a little time -- the same movement would be involved in going down to what we have marked as the storage tracks in connection with the stock yards; is that right?

A Yes.

Q Again you have a sharp curve. What has the practice been with regard to passing signals there?

A It has been on the fireman's side.

Q Are there any buildings or any obstructions between what would be the north or northwest of any of those tracks, or could the yard crew be out northwest in order to relay signals to the engineer?

A In order to relay signals to the engineer, particularly in the stock yards -- I have

handled 35 cars of stock to be spotted in those yards -- therefore one man would be required to stay west of the Emerson main line; another man **would be at the** switch to the storage tracks because of the buildings to the south of the storage tracks; one man would have to position himself there in order to see the man at the switch. It would be necessary to give them on the fireman's side rather than the engineer's side because he is such a long way away.

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Q And as to these cars in the storage tracks, does someone have to be at the point of the movement?

A Yes.

Q To make joins or make sure that you have got room and so on?

A Yes.

Q And I see that there is a roadway towards the right of the sketch as well as a roadway towards the left of the sketch. If you have got 35 cars would you or would you not be concerned with either of those roadways?

A Oh yes, you are always watching, the fireman particularly is always watching these crossings. He will see these crossings on his side and always advise whether it is clear or there is traffic moving towards your track.

BY THE CHAIRMAN:

Q Is there nobody at the point of the movement?

A No sir, not on this move because it requires the whole three men behind the movement in order to shove in safely.

BY MR. LEWIS:

Q Then, Mr. Colpitts --

BY THE CHAIRMAN:

Q May I ask a question there? How many cars would you be pushing?

A I have shoved 35 cars in there.

Q Well then, this 35th car comes up to the crossing at this roadway and there is nobody but the

fireman 35 cars away to see who is on the roadway?

A On the left side, yes.

Q Or on the other side. You said the engineer cannot see.

A Your attention will be directed -- on this move the fireman will be watching the switchman for signals.

Q No, Mr. Colpitts, I have just one point in mind. You told me there is nobody on the point of this movement which might be 35 cars away from the fireman?

A Yes.

Q Therefore there is nobody but the fireman 35 cars away who can see as the cars approach that roadway whether or not there is anybody on it?

MR. LEWIS: May I with your permission, Mr. Chairman, ask a question?

THE CHAIRMAN: Yes.

BY MR. LEWIS:

Q When the Chairman asked you about a man being at the point of the movement did you understand that what he meant was a man being on the last car which is the point of the movement when you are backing down?

A I see.

Q Would there or would there not be one of the yard people on the last car or at the last car which is the point of the movement as you are backing down?

A Yes, after the switch was lined -- as you will see, they take a slight turn at the letter "K", the storage tracks. There is a switch there to line to back into the stockyard ramps.

Q I am sorry, will you just go back. You said before that the fireman watches the crossing which is marked "roadway"?

A Yes.

Q And before you get onto this roadway you pull the train along the main line past that, do you not?

A You pull down this --

HON. MR. McLAURIN: Lead.

THE WITNESS: Working lead or running lead.

BY MR. LEWIS:

Q You have got from the main lead on to the working lead and from the working lead on to the Swift lead?

A No, you do not touch the Swift lead.

Q Then you go along the working lead and you are going south. Is that right?

A Yes.

Q And when you are going south of course the engineer and the fireman can both see the crossing? Right?

A Yes.

Q Then when you pass it do you go right clear of the crossing or do you block the crossing?

- A You block the crossing while they turn the switch into the stockyards.
- Q And when your train blocks the crossing I do not suppose any flagging is needed?
- A No.
- Q And then you get your back-up from the man at the point of the movement or the man in the storage tracks?
- A The man at the point of the movement will relay it to the man at the end of the buildings which will then be relayed to the engine.
- Q And in your experience to the fireman?
- A To the fireman.
- Q So that if I understood the Chairman's question the watching of the roadway by the fireman comes in when on his side?
- A Watching of the roadway when you have to make a movement in a southerly direction, that is, forward with the engine.
- BY THE CHAIRMAN:
- Q Which is the roadway we are speaking about?
- A Swift's roadway, Swift Canadian. At "B" there is a roadway marked across there.
- Q And you have not been talking about any of the other roadways?
- A Not as yet, sir.
- Q Then, where will these 35 cars be? They will all be south of the roadway at some time, will they not?
- A You would not have to pull clear of the roadway,

sir, in order to back into the stockyards because the switch is north of the roadway.

Q Well, what called my attention to all this was that I understood you were describing something where the cars backing up came to the roadway and all the yard crew were occupied elsewhere than at the point of the movement which I have always been given to understand here means the front end of the leading car?

A That is correct.

Q And that that leading car was approaching this roadway and crossing it with nobody on the front of it and nobody closer to the front of that car than the fireman who would be 35 cars away. Am I wrong about that?

A I believe, sir, that I confused that myself. I was referring to the forward movement. I put the forward movement in there instead of backward.

MR. LEWIS: I think I know what is in the witness' mind if I may lead even more than I have done.

THE CHAIRMAN: Certainly.

BY MR. LEWIS:

Q What you had in mind was that in spotting these cars you go forward and back down and you do that more than once?

A Yes.

Q And assume for the moment you have gone past the switch which would be at the track leading

to the storage track. That is when you stop.
Isn't that right? .

A Yes.

Q And you block the roadway and then you get your back-up signal which in your experience is relayed through the fireman? Right?

A Yes.

Q And backing up you push the cars into the storage tracks? Is that right?

A Right.

Q And when you have done that your engine has gone north of the roadway? You have cleared the roadway? Right?

A Yes.

Q Then you get a signal to go forward again when you have to make your next switching move. Is that right? Do you follow me?

A Yes.

Q Am I right in thinking that what you intended to inform the Commission about was that in order to get your forward signal the engineer is concentrating his attention to the north and east where the yard crew is working in the storage tracks. In other words, he is looking back? Right?

A Yes.

Q And that the fireman is the person who watches as far as the roadway is concerned, which you said was a busy roadway, while the engineer looks in the opposite direction for the

signals from the yard crew?

A Should they give the signals on his side, yes.

BY THE CHAIRMAN:

Q That is what you were talking about?

A Yes.

Q I am sorry, I was completely confused.

BY MR. LEWIS:

Q And the same kind of thing would occur at Canada Packers, would it?

A Yes, the same thing.

BY THE CHAIRMAN:

Q May I clear that up entirely? Is there ever any part of this movement when you back a car across any of these roads without anybody being at the end of that car to see what is there?

A No, there is always someone protecting on that movement.

MR. LEWIS: Perhaps before I ask you, sir, for a break we might take a minute to finish the Paddington end of it, if you will.

BY THE CHAIRMAN:

Q May I ask one question about the Swift end of it? Mr. Colpitts, what is the distance between track No. 4 and the killing building?

A It is very close to the fireman's side there. After you get by the obstruction of the building the switchmen have walked down and crossed over the cars to get on to the stock pen walk-way or ramp to relay signals from that point to the left side of the cab.

Q Well, can anybody give signals or see signals placing themselves between track No. 4 and the killing room?

A They would place themselves at the corner of the building and at the stock pens. That is the two locations they would place themselves because it is close to the building and it has always that I can recall been done that way.

Q I am not sure that I follow you. Somebody would be --

A At the west end of the buildings you see "truck loading".

Q Yes?

A Right at that corner, at the northwest corner one man would position there and then you have your ramps at the stockyards as marked here.

Q Somebody else there?

A And somebody else there and they relay from one to the other to the fireman.

BY MR. LEWIS:

Q This place marked "truck loading", I suppose that is for trucks that come in and load and unload there?

A Yes, there is a lot of traffic. Both Swift Canadian and the crossings at Canada Packers are busy crossings at all times.

Q With motor vehicles only or people as well?

A Well, people walking, private cars and trucks.

Q Then, I do not think it will take you very long to indicate to the Commission what you

wanted to say with regard to Exhibit 227 and the Paddington transfer yard which is at the extreme left of the sketch or south end.

First of all, how many are there in the yard crew working on the job you have in mind?

A Four switchmen.

Q There is the yard foreman and three switchmen?

A The yard foreman and three helpers.

Q And what is your point with regard to this yard?

A Well, in transfer service or delivering cars to this yard you come from the north, that is, from the right of the sketch, from the north proceeding with the engine headed south to "D" on the main line. That is to the upper left-hand corner of the map, the letter "D", which indicates a cross-over from the main line to the working lead.

Q And you are pulling the cars, are you?

A We are pulling the cars. We will pull around the curve and into one of the various tracks that the C.P.R. has. The C.P.R. has part of the yard and the C.N.R. has the other side. The part for the C.P.R. is usually in the north, that is --

Q The tracks we can see?

A Yes.

Q The tracks we cannot see are the C.N.R. ones?

A Yes.

Q Yes?

A You pull your train into one of those tracks. Then you will cut off at the other end of the yard, come out on to the lead and then back cab first.

Q Just a moment --

A Back west.

Q What do you mean by "cut off"? Do you mean you cut your engine off from the cars?

A Yes.

Q You place the cars on a track and you cut the engine off?

A Yes.

Q And then the engine runs around on a convenient track?

A Yes.

Q And comes back to another track on which it has to do some switching work?

A Cars that they are going to have to take back to Winnipeg.

Q Cars that they take back?

A Yes.

Q Then they couple on to that track?

A They couple on to that track and switch that track out to conform with the cars for the north side of the yard at Winnipeg and the south side of the yard at Winnipeg.

Q Yes, and in all these switching movements what is the point you wanted to bring to the Commission's attention?

A During the switching movements the engineer's

attention is always ahead of the movement.

The fireman will keep a lookout for conflicting movements on the working lead that may be working in Swift Canadian putting cars of stock in the stockyards or other movements from the north which will be coming in to deliver more cars to Paddington.

D.R.Colpitts

Q And was that the only point you wanted to bring to the Commission's attention on that Exhibit?

A Yes.

Q And have you worked these jobs on Exhibit 227 recently?

A Yes I have.

Q How recent?

A It would be about the middle of April.

Q Of this year?

A Yes.

Q Well, did you work -- just so that we can get it clear -- the Paddington job or the packing house jobs? Which ones?

A I would say it was Swift's I worked at that time and Canada Packers.

MR. LEWIS: I have not very long with this witness but perhaps we might have a break now, sir.

THE CHAIRMAN: All right.

-- The Commission took recess.

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--- After recess.

BY MR. LEWIS:

Q Mr. Colpitts, do you recall an incident that happened on a trip from Souris to Winnipeg with Engines Nos. 8508 and 8519?

A Yes, sir.

Q Do you remember about when it happened?

A It was about April 3rd.

Q Of this year?

A Of this year.

Q And when did you take over the engine -- were you the engineer?

A I was the engineer.

Q Yes, and had you a fireman with you?

A Yes.

Q And his name was?

A A. Sankow.

Q Would you tell the Commission what happened on that trip?

A I had come to Souris, arrived at Souris, and transferred to the other crew, they took over from me and went west of Souris with these two units.

BY THE CHAIRMAN:

Q Two road switchers, I suppose?

A Two road switchers. On their trip west they had trouble with one traction motor of the second unit, No. 8519. They

notified the officials of the trouble and they sent a man out to cut out the second unit. On their return trip they came with one unit working.

BY MR. LEWIS:

Q That is the trip from Estevan?

A From Estevan, which was where they were returning from.

Q On their trip from Estevan to Souris, they had only the lead unit working?

A Yes.

Q Then you and Mr. Sankow, if I may lead, took over from them for the remainder of this run from Souris to Winnipeg?

A Yes.

Q And you and Sankow boarded the engine at Souris to go east to Winnipeg?

A Yes.

Q Were any officials of the company at Souris when you boarded the engine?

A Yes, Master Mechanic McDonald and Road Foreman A. Grant met the train on arrival at Souris.

Q What train was it, a freight or a passenger?

A It was a freight train. We stood in front of the station at the change-out point for crews quite some time, while they talked over what had been done before they returned to Souris by the

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other workmen. They cut out one traction motor on the second unit No. 8519.

Q How many cars did you have after you left Souris?

A We had about 66 cars, I believe -- I may be wrong, but I believe it was 66 cars. They came in with somewhere in the neighbourhood of 30 to 35 cars.

Q And you filled it out, you think, to about 66 cars?

A Yes.

BY THE CHAIRMAN:

Q I must have the wrong impression. I thought this unit was completely cut out?

A From the west to Souris, yes.

Q Then, you spoke about cutting out the traction motor of that unit?

A They had not used the second unit from the west to Souris. They only used the one unit.

BY MR. LEWIS:

Q But from Souris to Winnipeg?

A From Souris to Winnipeg we used the two units with the exception of only having one traction motor on the second unit.

BY THE CHAIRMAN:

Q You did not make that clear to me. Now, I follow you?

A I am sorry.

BY MR. LEWIS:

Q You think they came down with some 30 cars from Estevan to Souris?

A Yes.

Q Then you filled it out to about 66 cars at Souris?

A I think it was around that figure.

Q If I may lead, was that what necessitated getting some power out of the second unit to pull the larger train from Souris to Winnipeg?

A Yes.

Q So this time, instead of cutting out the second unit entirely, they cut out half of it, or one traction motor, and you were working with the one traction motor on the second unit?

A Yes.

Q You said Master Mechanic McDonald and Road Foreman Grant were there in Souris. Did they talk to you and the fireman?

A Yes, they talked to us and explained that they were cutting out one traction motor and that I could pull down into the yard but not to have my amperage on the lead unit to a higher extent than 400 because they were afraid of this second unit going into reverse.

Q What was the result of that?

A I followed through with that procedure

until we had pulled down the main line
to the east end of the yard.

Q What happened to the alarms as a result
of that?

A We were instructed at Souris, before we
left, at least I was there and the fireman
was told to make repeated patrols back to
this second unit to see that everything
was all right, and any time we stopped to
be on the ground to make sure that all
wheels of the second unit were turning.

As I understood the explanation,
the gear had not been trimmed off
sufficiently to ensure that it would not
engage the traction motor that was cut
out and they were afraid it would stick or
seize and skid the wheels.

Q Who gave Mr. Sankow these instructions
to go back frequently, I think you said,
go back to the second unit and make sure
that all was all right?

A The road foreman.

Q Mr. Grant?

A Mr. Grant.

Q Did you work in the Winnipeg yards in the
winter of 1954-55?

A Yes, sir.

Q Would you tell the Commission about any
experience you might have had with the

functioning of yard engines during that winter in the Winnipeg yards?

A During that winter there was a lot of trouble with fumes in the cabs of engines and the fact that we could not seem to get them warmed up sufficiently to do their work properly. In fact, on one occasion I had to go to the roundhouse and have the steam hose put on to warm it up in order to get the engine to move. It would hardly move at more than a slow walk in its switching movements.

While working in I yard on one occasion the fireman noticed steam and water running out on the left side, the overflow is on the left side for the water-cooling system. He drew my attention to it and said the engine was boiling over. I looked at my gauge and it was only registering a normal temperature of 180. We ran out and opened all the louvres up and put the engine over on the shop again on the south side, that is, the south side of the yard, the shop track over there, and put more water in it. The gauge was faulty and therefore I had no indication. The fireman, on his side there is a vent for overflow when the engine is overheated.

On another occasion the fireman was out making an inspection, turning the

filters, and he heard an awful rumbling noise at the front end of the diesel. He came back --

Q This is a yard diesel you are talking about?

A This is a yard diesel. He came back and told me. I stopped the movement and we went out and we did not hear any great noise when I stopped. Then, I told him to go back in the cab and move the engine, open the throttle so she would work faster, and then I heard the noise he was speaking about. He shut the throttle off and I opened the front door at the nose of the diesel, and looked in where the fan is, where it draws air through for the cooling system, and the fan was not operating.

Q Were you able to do anything about it?

A We were not ourselves able to do anything about it other than get out of the road for the other movements, back over to the shop track and call the shop because the engine was quite hot by the time we even got there.

Q Do you know, I think it is Master Mechanic Woodland?

A Yes.

Q Did you have any conversation with him during 1956?

A During 1956 there was considerable thought of writing firemen up as engineers,

that is, mechanical examinations, and in the early part of that year -- in fact all during 1955 -- there was considerable talk of mechanical examinations for firemen. I had spoken several times on this, that firemen would like to get more written data on diesels.

In February of that year, of 1956 I should say, after conversations with Mr. Woodland, it was arranged that either one or the other, that is Mr. Hawkins or Mr. Dingwall --

Q Who are they?

A They are diesel maintaining men or inspectors out of Winnipeg. It was arranged that either one of them would attend one of our regular meetings and give an instruction class, give instructions on diesels, steam generator operation, oil levels, water levels and so forth, in order that the men would get the extra mechanical instruction.

This meeting, I might say, was well attended. In any case, we were advised a little later by bulletin that firemen would be prepared to write examinations in October.

Q Those bulletins were filed when Mr. Emerson was on the stand. In your conver-

sations with Mr. Woodland or Mr. Dingwall or Mr. Hawkins, was there any reference to patrolling of the engines?

A Yes, firemen were definitely made to understand that the patrolling was part of their duty.

Q When was the last time that Mr. Woodland told you that, if he told you that?

A About June of last year in conversation it was signified to me that the firemen must learn what to do in order to keep trains going over the road.

Q Do you recall whether you had any difficulty on a run between Winnipeg and Brandon sometime toward the end of last year?

A We had left Winnipeg in the afternoon, I believe, if this is the occasion, and we had the master mechanic riding with us.

Q Who is he?

A Mr. Macdonald from Brandon. When it got dark we noticed there were four or five lights that were not operating. One was a classification light on the head end. The fireman changed out the classification lamp so that we would have a good indication on the front of our engine.

The headlight was out of focus, not in good direction, and was remarked on by Mr. Macdonald. We adjusted that; the fireman and I adjusted that when we made a stop at MacGregor.

There were three lights on the panel, the engineer's panel, the gauges, that had become defective and we changed those out. I carry in my lunch box small tools

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for such purposes as changing out lights that would burn out off the panel.

Q And finally, Mr. Colpitts, do you recall any difficulty with contactors during a trip on a diesel engine?

A Yes. We had trouble with one unit. I cannot remember what the number was, but it was from Winnipeg to Minnedosa.

Q When?

A I cannot remember the date.

Q What year?

A Last year. It would be the latter part of November or early December.

Q Of 1956?

A Yes.

Q Yes?

A On this trip we had three alarms. I cannot say just, only that the fireman when we received the alarm went back to the second unit and he advised me on each time he went back and came back to the cab, he advised me the first time it was a ground relay, and the next time he went back it was a low lube, low lubricating oil alarm, and the next time was close to Minnedosa on a heavy curve. He ran back again and he informed me it was a low lube then.

On arrival at Minnedosa the alarm went off again but we were changing off

crews and I told the engineer and fireman of our experience coming up and that I had trouble with one of the contactors making transition from out about 25 miles an hour, it would not stay engaged and I could not get power nor speed that should have been accumulated. I opened the cabinet and put my foot on the bottom of the -- I am not sure what you call it--

Q What did you accomplish?

A I accomplished the fact that I held the electrical contact up in order that it would stay to allow the transition to be made to a higher degree.

Q Did you discuss having done this with anyone in authority?

A Yes. I asked -- I was worried about that and asked if I had done the proper thing.

Q Of whom did you ask that?

A I asked Mr. Woodland and he told me, "Did it work?" I said, "Yes." He said, "Anything that you can do to keep these trains going, all the better for us."

MR. LEWIS: That is the comment on which I will end my examination, Mr. Chairman.

BY HON. MR. MARTINEAU:

Q Before Mr. Sinclair starts to examine you. On Exhibit 227 mention is made of the Paddington yards. When you started to talk about switching to the siding in Paddington you mentioned a four-man ground crew?

A Yes.

Q Would that apply only to the Paddington yards, or would that apply to the whole area shown on Exhibit 227?

A No, that is just for the Paddington yards.

BY MR. SINCLAIR:

Q Mr. Colpitts, you have spent a great deal of time in the Winnipeg yard?

A I have.

Q You know it well?

A I believe I know it fairly well.

Q You felt competent to give expressions of opinion here as to what would be practical in regard to switching in that yard?

A Yes, sir.

Q I am instructed that a check has been made of all locations in the Winnipeg yard and there is not one location where with the proper positioning of the ground crew signals could not be

safely and efficiently transmitted to the engineman. What is your comment on that?

A Signals can be transmitted to the engineman, but with the confliction of movements in the Winnipeg yards and other assignments, it is necessary to have someone on the left side.

Q Very well, so what you say is that the reason you have to have a fireman is to watch for conflicting movements?

A Yes, sir.

Q And for no other reason?

A And to watch that the other crews do not throw switches in foul of your movement, which has happened on a number of occasions.

Q The firemen are required for watching conflicting movements and seeing that no cars are fouled or no movements are fouled?

A And watching signals at Rugby Junction.

Q And watching signals at Rugby Junction?

A Watching to see that the proper tracks are lined for crossover movements.

Q Watching to see that the routes are lined?

A All right, routes.

Q Do you have your last A certificate with you?

A I have not.

Q What is the last date on it?

A My A certificate card expired December of last year.

Q December of 1956?

A Yes, sir.

Q You have not been examined on the rules since?

A Not since.

Q You feel that you know the rules?

A I feel that --

Q You have a working knowledge of them?

A I have a working knowledge of them.

Q You say that when you are operating an engine cab first on a lead you keep your attention directed -- I am quoting you, what you said on a number of occasions yesterday and today -- always down to the cars and the fireman is the man that is making the observations in the direction of the movement?

A That is correct.

Q That does not apply only at one place, this is your practice, I take it?

A That is my practice in the yards, to have the fireman alerted to other movements in the Winnipeg terminal.

Q That is your invariable practice?

A Yes, sir. He must be up there to alert me to any other movements in the Winnipeg yards.

Q Never mind about the fireman, I am asking you as an engineer?

A Me as an engineman?

Q Yes. You keep your attention directed down to the cars?

A I keep my attention --

Q Always?

A -- directed to the signals that I am to receive.

Q Always?

A Always, and that takes in the point of my momentarily looking back.

Q Now we are going to have you momentarily looking the other way?

A Yes, sir.

Q You want --

A I cannot have my attention --

Q Pardon me, you want to add that to each of the times when you said that you always had your attention directed constantly down the cars; you want to add as an exception the times when you would turn your head and look in the direction of the movement?

A It was not my intention to say it was always, but most always your attention is at your movement and the switching signals.

Q Are you now telling the Commission that your practice is to look one way and then turn and look the other way?

A When the opportunity, when I get an opportunity to look back and know

signals to be received, I do so.

Q You make it a practice to keep a lookout in the direction of the movement; is that what you are now saying, Mr. Colpitts?

A With the fireman --

Q I am asking you a question.

A You cannot always do that.

Q You do not do that?

A You cannot always do that.

Q It is not your practice to do it?

A You cannot always do it.

Q I am asking you what your practice is.

A My practice is to watch for signals and if I have an opportunity I will look back.

Q But it is not your practice to keep a lookout in the direction of the movement as an engineman?

A I may take a short glance backwards but my practice is usually to watch for signals which the engineer must do in a movement on a lead.

Q You think that you are complying with the rules in operating so that you are constantly, with the exception of the momentarily which is given as an amendment to your answers -- you think that is compliance with the rule?

A I do, because the fireman is there for that purpose, as far as engine efficiency and operation under safety

is concerned.

Q Have you a rules book with you?

A I have not one with me.

Q You know them. Have you any comment about Rule 104, the seventh paragraph, on page 61? Would you mind reading it, or perhaps I could read it. It reads:

"A train or engine must not foul a track until switches connected with the movement are properly lined, or in the case of spring switches the conflicting route is seen to be clear."

You are subject to that rule?

A I am.

Q And you are saying to this Commission that you have delegated that duty to the fireman?

A Not always.

Q On a back-up movement, cab first?

A On a back-up movement or switching movement on leads, cars attached to the head end of the engine, you must have your attention to your signals. You may be only backing up a short distance and prepared for a stop signal. You cannot divert your attention. Therefore the fireman will be there to look out on the left side.

Q Would you mind answering my question?

Do you when you are working your engine cab first with cars on the nose, do you delegate the duty set out in the seventh paragraph of Rule 104 to the fireman?

A I do not.

MR. LEWIS: Would my friend indicate to the witness before he asks him that question what duty it is that the seventh paragraph of Rule 104 sets out? Would he indicate what duty this witness is supposed to carry out before he asks him what he delegates to the fireman? This question is just an attempt to snare the witness. Was there any duty that the witness has under that paragraph?

MR. SINCLAIR: I did not understand that to be the effect of the questions I have been asking.

THE CHAIRMAN: I think you might ask the witness what he understands the rule to mean so far as an engineman is concerned.

MR. LEWIS: That is right.

MR. SINCLAIR: I think the interpretation of the rule speaks for itself. Surely the witness knows what it means. My friend maybe does not know, but I do not know.

THE CHAIRMAN: There seems to be some disagreement between counsel as to what it means and perhaps you might ask the witness what he thinks it means.

BY MR. SINCLAIR:

Q What do you think Rule 104 means, witness, as to your duties as an engine-man?

A I would say that if I was working on a lead and there was another movement going to come onto my track or this lead, come out onto this lead, the other movement would be sure that they are not going to come out and conflict with my movement. With the amount of operations in Winnipeg and with so many yard engines you can expect a switch to be lined against you even though you are working on that lead. I would protect and feel sure that the fireman there knows that rule as well as I do and would give me an indication of it, should it be against me.

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BY THE CHAIRMAN:

Q Mr. Colpitts, you were not asked about any particular geographical location at the moment. You were asked to read the rule and give your understanding of the duty, if any, that it imposes on you as an engineer. That is the question.

A It means that you will not go into territory where the switches are not properly lined for your route.

Q That is, that the engineman will not do that without seeing that for himself?

A For himself, yes.

Q That is what you understand?

A Yes.

BY MR. SINCLAIR:

Q At least, Mr. Colpitts, I think you and I are in agreement on one thing anyway. Then, in conducting the movements that you have been talking about you have delegated that duty to the fireman, have you not?

A I have not specifically delegated it to him because it has always been understood the fireman is there and will do anything and everything to indicate any movements that would be conflicting with our own movement.

THE CHAIRMAN: Instead of the word "delegate" you could substitute the word "rely".

THE WITNESS: That is right.

MR. SINCLAIR: No, sir.

THE CHAIRMAN: Very good. You are examining. Go on.

MR. SINCLAIR: I do not think, with respect, sir, that when you have a duty it can be discharged by relying on somebody else when you are in a position to carry it out yourself.

THE CHAIRMAN: I was not interpreting the rule. I was just interpreting what the witness had in his mind.

MR. SINCLAIR: Oh, I see.

BY MR. SINCLAIR:

Q What you are saying is that you feel confident enough in the fireman sitting there with you that you do not have to bother about it? Is that what you mean?

A It is not a case of not having to bother. I know I must do these things as well as the fireman knows but my attention cannot be in two places at one time.

Q But in not looking back and seeing that a route is properly lined you feel that it is all right for you to do that because the fireman is there?

A If there is an occasion where I cannot look back to see I will ask the fireman how does it look and he will tell me and then if there is something wrong I will look for myself and ascertain as to what he is getting at.

Q Witness, don't you understand the point I am

putting to you? I do not want you to misunderstand my questions at all. I am asking you a very simple question. When the fireman is looking in the direction of the movement on the lead you feel that you do not have to look to see whether your route is properly lined? Is that your evidence?

A When you are on the lead working the fireman will keep the greatest lookout rather than you having to be looking back and watching for signals because you are not always backing up a very long distance in working on leads. You will back up possibly one carlength. You have to watch for signals from the ground crew.

BY THE CHAIRMAN:

Q I am trying to understand your evidence. As I understand it, it is this. You have already said that you understand what the rule means so far as you as an engineman are concerned but you say that as a matter of practice you substantially or often or most always rely on the fact that the fireman is looking and will see that your engine does not go out so as to conflict with some other movement and you do not look yourself. Do I understand you correctly?

A No sir, I am working on the lead --

Q Yes?

A And it will be other conflicting movements coming on to that lead that the fireman

will be looking out for.

Q All right, put it that way.

A I am occupied with the switching duties on the lead.

Q I appreciate that, but as I understand your interpretation of the rule, when you are on the lead the rule says that you as engineman must see that you do not run foul of something else coming out of another track on to that lead?

A That is correct, sir.

Q But you say that as a matter of practice, because your attention is directed in the other direction, you usually or mostly or often rely on the fireman to do the looking instead of yourself?

A Yes, sir. I look back but momentarily.

Q No, no. That is what you really mean?

A That is right.

Q All right. I think if you will just follow the questions a little more closely and answer them it will be more satisfactory. You are apt to get into other things. Just answer Mr. Sinclair's questions and we will not get confused.

BY MR. SINCLAIR:

Q Mr. Colpitts, before you start a reverse movement, cab first, after you have got the back-up signal do you turn around and look where you are going to go?

A Momentarily I will turn around, just a

moment, that is all, or I will say, "How does it look back there?"

Q Sometimes you will not even turn around?

A If we are making a short move or they are giving you a slow signal as much as to say, "Back up, you are on the switch", which is a very short move.

Q If you are going to move two or three feet, you mean?

A Well, 3 feet, 6 feet.

Q Three feet, 6 feet, and it is your practice not to turn your head and look before you start your engine in that direction?

A I feel that the fireman in his lookout position is ready and always is ready to notify me of any movement because I have nothing that would indicate to me of any conflicting movement.

Q Look, Mr. Colpitts, I know it may be that you want to tell us all about the fireman. Lots of local chairmen do. But I am asking you as an engineman running in the Winnipeg yards and will you please try to remember that you are operating an engine under the rules as an engineman and not as a fireman. Keep your mind on that and try to answer these questions for me and for the assistance of the Commission. Now, I am asking you as an engineman, when you get a back-up movement do you not look in the

direction you are going to move before you start your engine moving in that direction?

A I will not say that I look every time.

Q What is your practice, Mr. Colpitts?

A My practice is to look back as often as I can.

Q How long does it take you to turn around?

A It doesn't take very long at all.

Q And if you have got a slow back-up and you are maybe going to move off a switch 3 to 6 feet you take a look and move at what, about a quarter of a mile an hour, half a mile an hour?

A Very very slow.

Q You just ease it back?

A Yes.

Q And what you are suggesting to this Commission is that the fireman is necessary there to watch in that 3 or 6 foot movement after you have looked? Is that what your evidence is?

A Should any conflicting movement under rule 104 come into being, as far as another movement is concerned, yes.

Q Well, if you are going to move foul of an adjacent track in that 3 to 6 feet --

A On a lead track you run foul lots of adjacent tracks.

Q I am asking you, if you are going to move foul you can determine that by the look that you take. Are you going to just not look

again and just go foul?

A If the movement is wrong to the lining of the switches, certainly not.

Q In other words, you make such observation to determine for yourself that the move that you are about to make is safe?

A Immediately I am notified by the fireman there is a conflicting movement I do so.

Q I am asking you, Mr. Colpitts, to remember that you are an engineman. I am asking you what you are doing.

A I am speaking as an engineman.

Q You are speaking as what?

A As an engineman.

MR. SINCLAIR: With respect, Mr. Chairman, I do not like to be unfair to this witness but I do not seem to be able to have him answer what are relatively simple questions.

BY MR. SINCLAIR:

Q I will start again, Mr. Colpitts. You are going to back up?

A Yes, sir.

Q You are 3 to 6 feet from a switch?

A Yes, sir.

Q Have you got that picture? Is that the picture you want to have the Commission have in regard to this movement?

A Is the switch lined behind me?

Q Just a minute. You are 3 to 6 feet from the switch. That is where your engine is.

A In which direction?

Q The cab is back, the cars on the nose of the engine.

A The switch is behind me.

Q That is right. You are 3 to 6 feet from it. You get a back-up signal from the ground crew. Are you telling this Commission that you start to back up without looking to see how that switch is lined?

A No.

Q You are not telling them that?

A No.

Q You make that observation yourself?

A I will make that observation because I am sure I will be given the information by the fireman or if I do look back I will see it myself and therefore if I am 3 feet or 6 feet away from that switch somebody other than our movement has made it.

Q You are not suggesting to this Commission that under those circumstances you need a fireman to help you look at it, are you, Mr. Colpitts?

A When you are busy on leads --

Q I am asking if that is your suggestion?

A I need the fireman there to look out.

Q You need the fireman under those circumstances to look?

A Yes. If I am stopped, no.

Q I thought you were stopped and you were going

to have a reverse movement.

A All right.

Q Now, do you need the fireman to make an observation before you start the engine moving in reverse?

A If there is a conflict --

Q Do you?

A Do I when?

Q Do you require a fireman to make an observation for you when you are going to move cab first?

A I rely on the fireman.

Q I asked you if you needed him?

A I rely on him for that purpose.

Q You don't want to answer that question?

A It isn't that I don't want to answer it.

Q You cannot? Is that it?

A No, I feel I have answered it.

Q Then answer it, please?

A I feel I have answered it.

Q Well, I will put it to you again. Do you need the fireman to make an observation under those circumstances that I have related to you?

A If someone other than our crew line that switch then I need the fireman there to tell me if it is wrong, if my attention is other than back at the point where that switch is lined wrong.

Q That is the reason you need him when you are working on a lead?

A If my attention is directed at the signals.

Q Do you think you are a competent engineman, Mr. Colpitts?

A I don't profess to be any better than anyone else.

Q But you are as good as anyone else?

A I don't know that I would even make any answer to that, sir.

Q You are very safety conscious, Mr. Colpitts?

A We are taught to be safety conscious.

Q I am asking you?

A I try to be.

Q You have carried that out?

A I have tried to.

Q Down through the years?

A I have tried to.

Q When you were local chairman of the lodge and active in its affairs in the Winnipeg Terminals?

A I have tried to.

Q And if there was any conflict between representing your organization and safety you put safety first? Is that correct?

A I have tried to.

Q You have never had any exception to that?

A Unless you can --

Q Help you?

A Help me.

Q Do you know a fireman by the name of Howe?

A George Howe, yes.

Q Do you remember any action you took in regard to Mr. Howe?

A Yes, sir.

Q You tried to have him reinstated to work as a fireman, taking the position in regard to the work Mr. Howe would have to do that he could quite properly be a fireman on a diesel engine? Do you remember that?

A I didn't try to have him reinstated as a fireman, sir.

Q You did not?

A I didn't.

Q What did you try to do?

A I asked the Canadian Pacific Railway to give the man other employment.

Q You did not want to have him as a fireman?

A The medical report, I believe, if you will read it, Mr. Sinclair, will signify that it would not be advisable to retain the man around moving objects.

Q Well now, the medical report said the man had homicidal tendencies?

A Yes, sir. The man had diabetes.

Q He had more than diabetes, didn't he, Mr. Colpitts, and you knew it?

A The man -- I can give you a letter or show you a letter from Dr. Pincock explaining this man's position and from Dr. --

Q Musgrove?

A No sir, he is --

Q The chief psychiatrist?

A No, Pincock is the chief psychiatrist. He is the medical executive in Winnipeg, for Manitoba, in fact from the General Hospital.

D.R.Colpitts

Q I am instructed that you asked to have Mr. Howe reinstated as a fireman; do you deny that?

A I did not ask, because as you pointed out here, the man was accused of manic tendencies.

Q I am instructed that you said in the light of the duties that would be required of him there would be no reason why he could not be assigned to a diesel engine.

A I deny that on this occasion because of the fact that the medical report from Montreal denied the man the right to work around moving -- or on the Canadian Pacific Railway.

Q You challenged that, did you not?

A I asked Mr. Kelley and I had an interview with Mr. Kelley, the Assistant Superintendent -- or Superintendent at that time -- of Terminals, if anything could be done in finding a position for this man.

Q Just let me help you a little more. Did you not first take the matter up with Mr. Woodland and having been refused by Mr. Woodland then you appealed to Mr. Kelley, is that not so?

A I took the matter --

Q Is that not so?

A That is correct. I took the matter up and on Mr. Woodland's advice I went to Mr.

1. The first

2. The second

3. The third

4. The fourth

5. The fifth

6. The sixth

7. The seventh

8. The eighth

9. The ninth

10. The tenth

11. The eleventh

12. The twelfth

13. The thirteenth

14. The fourteenth

15. The fifteenth

16. The sixteenth

17. The seventeenth

18. The eighteenth

19. The nineteenth

20. The twentieth

21. The twenty-first

22. The twenty-second

23. The twenty-third

24. The twenty-fourth

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Kelley because it was out of Mr. Woodland's hands.

Q After Mr. Woodland told you he would do nothing for you you went to see Mr. Kelley?

A He could not do anything for me because it was out of his hands.

Q You say that is the only reason you went higher?

A That is correct.

Q Do you remember another fireman by the name of Peter --

THE CHAIRMAN: I think we will adjourn at this point until 2.10 p.m.

Wednesday,
May 29, 1957

AFTERNOON SESSION

-- The Commission resumed at 2.10 p.m.

Mr. LEWIS: Mr. Chairman, before my friend proceeds, if I may, I am quite prepared to leave this until re-examination if my friend wishes, but in view of the issue with regard to this man for whom Mr. Colpitts spoke to Mr. Kelley which my friend raised in cross-examination, there is some correspondence that might help clear it up. I can leave it till re-examination and perhaps I had just as well, but I thought I would let my friend know about it. However, I can leave it till re-examination.

MR. SINCLAIR: Let me see it, please.

I think, Mr. Chairman, in the light of this correspondence I should read into the record what Dr. Pincock said that was mentioned by the witness, if that would be satisfactory to my friend, seeing that we put it all together.

This is a letter to Dr. Edward Holland, chief medical officer, Canadian Pacific Railway, Winnipeg, dated April 5, 1956. The letter reads:

"I have had George Howe as a patient for many years. He tells me he recently was laid off and certainly finds this hard to take. He has had a great deal of sickness including arrested tuberculosis, fairly well

Mr. Sinclair

controlled diabetes and recurrent depressions.

I would hope that the railroad could be persuaded to give him some work which would be more within his capacities. One of course recognizes that this should not be connected with responsibility for operation of traffic."

The letter is signed by T.A.Pincock, M.D. Provincial psychiatrist.

Then there is a further ^{letter}/from Dr. J.P.Gemmell of Winnipeg to Mr. Colpitts in which he makes references to this man's condition, and I think the point that the witness had in mind was this third point made by Dr. Gemmill in his letter. He is referring to the fireman, Mr. Howe, and says:

"He has had recurrent episodes of mild manic depressive psychosis for which he has received treatment. I am given to understand that Dr.T.A.Pincock will be writing you about Mr. Howe. Dr.George Sisler is familiar with Mr. Howe's case as well."

Then he expresses a view similar to that expressed by Dr.Pincock.

The letter is dated April 9, 1956.

The final letter is dated Winnipeg, March 7, 1956 and was written by Mr.Kelley, the Terminal Superintendent to Mr.Colpitts referring to fireman Howe. The letter reads:

Mr. Sinclair

"I have canvassed every available source for employment for this man and am sorry to say I am unable to place him in any capacity around Winnipeg Terminal."

MR. D.R. COLPITTS, Recalled

BY MR. SINCLAIR:

- Q Now, that is all correspondence dated in March and April of this year. Now, witness, you recall that you had approached Mr. Woodland and Mr. Kelley prior to those letters being received about having this man returned as a fireman?
- A I approached them only to the manner of getting some job, some employment, with the company for him.
- Q You deny that you asked before you got Dr. Pincock's letter to have this man returned to work as a fireman?
- A I deny that I tried in any way to have this man placed as a fireman.
- Q At any time?
- A At any time. I questioned at the start but when I was told the decision from Montreal I then tried to do the best I could to get this man employment in other capacities.
- Q That is right; after you had been told that he was incapable of this you argued the point and then when you were told he was a manic

D.R.Colpitts

depressive these letters were secured and
you had Mr. and Mrs. Howe go and see Dr.
Gemmell and give you that letter?

A I did not argue --

Q But you did tell him to go and see Dr.Gemmell
and then you took that matter up, is that
not so?

A No sir.

Q That is not right?

A I asked Mr.Howe to get that letter so that
the company would give some consideration
to the man in further employing him in
another capacity.

Q Well, witness, you had some experience
in 1955 with regard to the yard diesels
and the position taken by the firemen to
put backs on the seats in those diesels,
do you recall that?

A Yes.

Q After the company had equipped --

THE CHAIRMAN: With what?

MR. SINCLAIR: Backs on seats on yard diesels, on the firemen's seats.

BY MR. SINCLAIR:

Q You recall, do you not, that after these engines were equipped or the firemen's seats had backs to them, rather than just a box seat, there was a back applied, the firemen would bend these backs so that they could recline on the seats; do you recall that?

A I believe some were.

Q And the matter got to such an extent that the firemen were reclining on these seats throughout the Winnipeg terminal and the company made checks and found every one of them being bent back and issued a bulletin. Do you remember that?

A No, I do not.

Q I will read it to you. It is dated August 17, 1955:

"The Standard seat box on left side of cab which is used by helpers is supplied without a back rest and some time ago at the request of the local firemen a back rest was fitted to those seats.

Inspection now reveals that without exception all of these

"back rests have been bent downward to the extent they no longer serve the purpose of which they were applied.

Instructions have been issued to straighten the back rests into proper position and it must be understood by enginemen that the bending of these rests on purpose will not be tolerated in future."

Do you not recall that bulletin?

A Now that you mention it, I do, in so far as I had made some inquiries at the depot regarding back rests, yes.

Q Then you will recall also, Mr. Colpitts, that after observations being made of firemen reading when diesel engines were in motion, and on a check being made of diesel engines in which there were large amounts of reading material found in the seat boxes, enginemen were made responsible to see that no reading material was taken on diesel engines in the Winnipeg terminals?

A Yes, sir.

Q You recall, I suppose, the case of Peter Magnuss, a man who suffered from polio and who was assigned as a fireman on a diesel yard engine?

A Yes, sir.

Q In spite of his disability, he was given

work by the company?

A Yes, sir.

Q And he was one of the men, I think, that on a busy job was observed by a Vice-President of the company going through the yard reading a book when the engine was in motion?

A I do not recall all the intimate parts of the case, no, but I remember the case.

Q Then you will recall, even within the last few months, about a fireman on a lead job in Winnipeg terminals, while he was switching, was found asleep on his engine. Do you recall that case?

A I know there were cases of firemen who were taken to the depot for more or less the accusation that they were asleep.

Q I am talking about Fireman Winters?

A Winters -- I do not recall too much about that case because I did not handle it.

Q You did not handle it, but you knew about Winters. He was the man who was dismissed for being asleep while on the S lead, one of the areas you talked about here?

A The I lead.

Q The I lead, I am sorry. He was dismissed for being asleep?

A Yes.

Q That action was taken, was it not, witness, by the company after they had reprimanded a number of firemen and they said further

cases they would be dismissed if caught sleeping on duty; you remember that?

A If they were caught sleeping on duty?

Q Yes?

A Well, I gave a general alarm to the men to that effect.

Q Now, yesterday, you were giving evidence in answer to my friend's questions concerning the number of people around the yard; do you remember your evidence about that?

A Yes.

Q I think we agreed before lunch that you were saying that firemen were necessary for conflicting movements, in your opinion, for signals at Rugby Junction, and I do not know if you added about the people, but you meant to, to be on the lookout for people who would be around the terminals; that they were needed for that?

A Only as to their duties around the yard.

Q That firemen would be needed to look out for those people; do you want to add that?

A No, only as indicated.

THE CHAIRMAN: I do not quite understand what the question and answer now refer to.

MR. SINCLAIR: I asked him if his evidence was that firemen were needed to look out for people moving around the yard. I had said earlier to him this morning in cross-examination -- asked him what he said firemen were needed for --

and I reviewed it with him. I recalled his testimony was to watch out for conflicting movements, for watching out when cars were foul and to watch for signals, that is fixed signals, at Rugby Junction. I asked him if he wanted to add to that, to look out for people who were moving around the yard, and he said no, they were not needed for that, as I understood it.

THE CHAIRMAN: Is that right?

THE WITNESS: That is not the way I understood the question, Mr. Chairman.

BY MR. SINCLAIR:

Q Then, you do want to add that firemen are needed to look out for people walking around the yard, employees, grain men -- I guess that is the two classes; is that so?

A In safe operation in the yard, it would take that in, all safety features to employees and equipment.

Q I wanted to be fair to you, witness, and I just thought you had overlooked that when you detailed to me the reasons why, in your opinion, firemen were needed. You left that out, as I recollected?

A Well, I did not understand your question.

Q Now, you are saying you agree you do want to add that?

A Yes, I would add that.

THE CHAIRMAN: Would you not turn

your back to us, Mr. Colpitts.

THE WITNESS: I am sorry, sir.

BY MR. SINCLAIR:

Q One of the groups of people you would say firemen are necessary to protect in yards, according to your evidence, would be sectionmen, would it?

A Sectionmen working around leads or yards, yes.

Q I presume you are familiar with the maintenance of way rules and instructions, but to recall them to you I will now read from the Official Maintenance of Way Rules and Instructions, page 5. I am reading to you from the safety rules that apply to section forces on the Canadian Pacific. These rules became effective August 5, 1955, and they were put out by Mr. Colpitts, Chief Engineer of the company, and approved by Mr. Emerson. I never realized -- is this Mr. Colpitts the Chief Engineer, a relative of yours?

A I would rather not answer that question, if you do not mind.

Q Then, I go on to read the safety rules. It says here -- this applies to maintenance of way force employees:

"Employees must not walk
or stand on the track except when
necessary for the proper performance

"of their duties. When their duties necessitate their being on the track, they must keep a sharp lookout in both directions for approaching trains."

That is Rule 4. Rule 5 reads:

"Employees must expect the movement of trains, engines or cars at any time, on any track, in either direction, and if required to walk along the track on which current of traffic is in one direction, if practical they must walk against the current of traffic."

6. Employees in charge of men working on or about the track must see that their men are alert to keep out of danger, and that they receive warning of approaching trains in time to reach a place of safety."

Did you know that those rules govern the actions of sectionmen?

A Yes.

Q It has been your experience that section foremen who are in charge of crews are safety conscious about themselves and the men who are under their charge?

A All employees are informed of safety.

Q Section foremen are concerned about

conducting their work and their movements in the yards in safe and proper conditions, are they not; that has been your experience?

M-2

A As an experience, I cannot actually speak about section foremen, although they have the men alerted when movements come along. They try to at all times, but at times I have seen sectionmen step in the path of our movement.

Q But they are protected by these rules and by the actions of section foremen?

A They are guided by the safety rules.

Q Now, one of the other classes of employees you talked about were car bleeders, being around the yards. In Winnipeg terminals car bleeders are switchmen, aren't they?

A I believe so.

Q Accustomed to being around yards and about moving equipment in the yards?

A Yes, sir.

Q That is their life work?

A Yes, sir.

Q And other employees, such as engine crews going over for their engines, over to the roundhouse, they are accustomed to matters of that kind, too, are they not?

A Yes, sir.

Q And taking that into account, when they are moving through the yards -- your answer is yes?

A Yes, I will take that into account.

Q Now, as a matter of fact, the safety rules and safe practices which the company issued, which is Exhibit 49 in these proceedings, specifically draws this matter to the attention of all employees, does it not, this matter about making sure about moving cars; do you recall that?

A I do.

Q That is Rule 1214 which reads:

"Employees must know, before cars are coupled to or moved, that cars are protected against running out, or striking other car or structure, that persons, toeboards, loading devices, vehicles and materials are clear; contents safe for movement; doors on refrigerator cars, and stock loading gates secured."

And then Rule 1202:

"Employees must look in both directions before stepping foul of or crossing track and keep out of the way of closely approaching engine, car or vehicle."

You are familiar with those rules?

A Yes, sir.

Q Then you mentioned the RX yard, and the people employed there; that was the repair yard and you said there was a hazard involved there, did you?

A I do not recall that I placed it in that manner.

Q You just mentioned there was an RX yard because I took it from your answer yourself. You recall there are special rules applying to repair tracks and under the Uniform Code they

have to be protected by a blue flag?

A No, sir. I am referring to the movement of employees and personnel around the humps and across the humps. We watch out for them.

Q You do recall that if men are working under, on or about cars that those cars are protected against movements by a blue flag under the operating code?

A In the RX yard, yes.

Q The right to put a blue flag does not apply only to the RX yard because in the RX yard they lock the switches?

A Yes, and they put a blue flag also.

Q They have both types of protection. But if a carman wants to work on a car anywhere on the track he can blue flag the track under the rules?

A Yes.

Q And then no movement can go into that track or nobody can remove that flag?

A That is correct.

Q That gives him direct protection while he is working on the equipment?

A In that yard; yes, on any track where they are working on or beneath cars.

Q I was interested, Mr. Colpitts, in your evidence regarding grain inspectors. I think that you cast about in your memory and came up with some evidence that maybe

you may wish to modify, I don't know. That had to do with the fireman stopping you because grain inspectors were still working on grain cars, stabbing grain, and that that was not a rare thing, that it has happened many times?

A This has happened many times.

Q That grain inspectors were working on cars with ladders up to the cars when you were making a move on the track on which those cars were set?

A Yes, sir.

Q You do not want to modify that?

A No, sir.

Q Are you telling this Commission under oath that in the Winnipeg terminals grain cars are moved before the grain inspectors have completed their work?

A On the occasions that grain inspectors are working on cars that we have, yes.

Q This is a second matter, Mr. Colpitts, that I have heard of here this morning. You told the Commission in answer to my questions that despite the law requiring you to have an up-to-date certificate you are operating an engine. Now you are telling the Commission in answer to my questions that despite the provisions of the Grain Inspection Act and the

Canada Grain Act, they are not being complied with in the Winnipeg terminals.

MR. LEWIS: Surely my friend does not expect the witness to know what the Grain Inspection Act or the Canada Grain Act has to do with the questions he is asking him. Really, Mr. Chairman, there is a limit.

MR. SINCLAIR: Very well.

MR. LEWIS: I do not know, and that is why I know the witness would not know.

THE CHAIRMAN: I do not know, but I assume the question was proceeding on the assumption that everybody engaged in and about a grain car would know.

MR. SINCLAIR: That certainly was the assumption because this witness is the first man I have met around the railroad who has had anything to do with grain cars who has not had -- if I may put it this way -- a grain inspector let him know his rights.

THE CHAIRMAN: Maybe the witness does know. You might find out from him if he does.

BY MR. SINCLAIR:

Q Do you know the rights of grain inspectors and how they get on the property?

A No, I do not.

Q Have you ever seen a switch list in connection with grain cars?

A No, sir.

Q I suggest to you, witness, that when a grain train is yarded without the O.K. of the grain inspectors first being given those grain cars must not be switched, and that that is the invariable rule; do you not know that?

A I have not been told the formality at all.

Q Further, that the grain inspectors have to stamp Form 77, the switch list, before the yard master has any right to move grain cars?

A I don't know anything of that nature; I know nothing about that.

Q And that before a yard foreman can have a switch list involving grain cars the grain inspectors must have completed their work and stamped that their work is completed?

A I have never received any information when going to hump a train to that effect or nothing of that procedure at all.

Q Now, Mr. Colpitts, you have given the Commission a few instances where you said firemen have drawn your attention and you have taken action to stop. What you are saying to the Commission is that in those instances there might have been an accident if it had not been for that action. Is that what you are

saying to the Commission?

A We could have struck the objects that I have mentioned.

Q You might have?

A Yes, sir.

Q Now, would you mind telling the Commission how many instances you can recall where firemen caused accidents?

A I cannot understand that question.

Q You cannot understand firemen causing accidents?

A I cannot understand the question.

Q I am asking if you recall and will tell the Commission of instances where firemen caused accidents in the Winnipeg terminals, in your recollection and your experience recently?

A Unless you are referring to the second demerit marks I received.

Q There is one; that is one place where a fireman did cause an accident, did cause damage?

A He did.

Q Can you think of any other in the last six months?

A No, I cannot; I don't believe I could recall anything.

Q When those firemen did not pay any attention to their work, when they were sleeping or anything of that kind, did

that cause any accidents, Mr. Colpitts, in your recollection?

A Well, I cannot recall anything, no.

Q You recollect telling the Commission yesterday about pulling 35 cars -- I am just trying to recollect your evidence; you correct me if I am wrong -- down H lead and out onto G lead where the ground crew all stood down at the switch at the end of H lead; do you remember that?

A Yes.

Q Do you remember that incident?

A Yes.

Q Do you remember saying that as you went up the lead, that would be backing cab first, that the fireman would get off and get the switch?

A Yes.

Q To let you out onto G lead which extends beyond H lead to become I lead?

A I-1.

Q Now, you pulled completely up on H lead so as to clear the switches at the south end of H lead; that was the move you made?

A Yes.

Q After the fireman threw the switch you pulled out to I-1 or the extension of G lead, whichever you want to call it?

A Yes.

Q Did the fireman get back on the engine?

A Yes, sir.

Q And would you mind telling the Commission how you got the signals from the ground crew to start your switching move?

A On the right side, on the engineer's side.

Q Could you see the men?

A Yes.

Q Down at the switch at the end of H lead?

A Yes, sir.

Q Witness, I suggest to you that that track holds only some 21 or 22 cars and that you would be 13 cars --

THE CHAIRMAN: What exhibit is that?

MR. LEWIS: Exhibit 221.

BY MR. SINCLAIR:

Q You said in that case the signals came up on the right-hand side and that you got the signals directly from the ground crew who were down at the switches which were at the bottom of H yard lead?

A Yes, sir.

Q You had hold of 35 cars?

A I said about 35 cars, as I recall.

Q Maybe you want to reduce that a few?

A No.

Q You would not. I suggest that when you did that you would be 13 cars approximately, maybe 14 or 12, but at least 10, onto I-1, that is the

extension of the G yard lead, and that you could not see the people standing down at these switches?

A Yes.

Q You do not agree with that?

A If that was the situation then the fireman would stay on the ground and relay the signals from that point.

Q Right, but the fireman then would become a ground crew member and act as a signal relayer from the ground to you?

A That is right.

Q As you backed down I-1?

A Yes, sir. While the switch crew is in my vision I take the signals direct from them.

Q When you go out onto the extension of G yard lead over into I-1, as shown on Exhibit 221, when the ground crew disappeared from view the fireman becomes a ground crew member and you back out onto the lead running the engine yourself?

A I have backed up only to that portion because it is safe to do that move.

Q Would you look back before you moved?

A I certainly would.

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- Q That would be one occasion where you could look back and look forward and be adequately safe in the move you were making?
- A It is only one track there. There are no other tracks coming into it.
- Q It is a lead track you are on?
- A It is I-one, a single track.
- Q It is a lead, is it not?
- A You go from G lead to I-one. That is a single track.
- Q And you have never heard of conflicting movements on I-one?
- A Yes, there can be only at the point where "G" yard and "I" yard converge.
- Q Not from the west?
- A They have come down there. That is why I said when it is safe to take that procedure.
- Q But you have to look in the direction in which you are moving as well as take the signals ahead?
- A I would in that instance.
- Q Now, before I leave Exhibit 221, if you pulled a shorter cut of cars you would be able to keep the ground crew in your line of vision at all times and take signals directly?
- A Yes, sir.
- Q And before I leave Exhibit 221, you referred to these tracks in "G" yard as commercial tracks. We have been calling them team tracks. That is another phrase that means the

same thing?

A Oh, yes.

Q And you will agree, witness, that the duty to see that people are clear and not in any danger on team tracks is the responsibility of the ground crew, will you not?

A Yes. They are equally as responsible as the engine crew.

Q They are required to see that people are clear before a move is made under the rules, are they not?

A If it is in conflict with their movement that they are switching.

Q The ground crew are required to see that people stand clear and vehicles are clear and the move can be made safely under the rules?

A The same with the engine crew in a condition like that.

MR. LEWIS: Will my friend perhaps indicate to the witness what rule he is referring to now, as well as to me?

MR. SINCLAIR: Rule 112, page 66 of Exhibit 27, the third paragraph.

"Before coupling to or moving cars being loaded or unloaded all persons in or about such cars must be notified. Vehicles and loading or unloading devices must be clear."

BY MR. SINCLAIR:

Q The way they are notified is they are notified

by the ground crew? I think you will agree, witness, that they are notified by the ground crew?

A They are notified by the ground crew if it is ahead of the movement.

Q Are you saying they are notified by the fireman if it is behind the movement?

A When they are tying a track, that is when the rule will apply. When you are going to move a track, then any obstructions or employees around the cars will be --

Q This is team tracks.

A Team tracks.

Q This has to do with people who are unloading their merchandise or loading cars. They are not employees.

A All right, then.

Q They are patrons.

A We will say patrons.

Q And it is the ground crew's duty to protect them on moves in team tracks?

A That is right.

Q Now, "G" yard, these are short tracks, are they not, witness? What do they hold, about ten cars?

A I would say on the average.

Q And it is very easy for a ground crew of three to position themselves here so as to control the movement at all times safely and efficiently?

A The positioning of the crews would be up to themselves.

Q It would be up to the yard foreman, wouldn't it?

A Yes.

Q You are under his direction too, are you not?

A For signals for movement, yes.

Q I asked you whether you would agree from your knowledge of this that it is very simple for the ground crew to position themselves here to conduct the switching in a safe and efficient manner?

A That would be their responsibility.

Q They do not have any difficulty controlling engine movements there safely and efficiently. do they, Mr. Colpitts?

A We haven't had too much except for cars running down on us after they have been kicked on the lead and the fireman having stopped me from going into a track so the car would not collide with the engine.

Q You mean somebody did not tie them down, did not ride them?

A Yes.

Q We are talking about "G" yard?

A Yes.

Q That is a gravity yard?

A It has a slight grade to it, particularly around Salter Street bridge.

Q You mean one of the ground crew was not properly riding the equipment when it was being

kicked?

A I am not saying whether they were properly riding it, whether they have rode it and not left the brake on but the car rolled back on to the movement.

Q Have you ever complained to the yard foreman about this?

A I have told them.

Q Have you ever complained to the yardmaster?

A Pardon -- to the yardmaster?

Q Yes?

A No, I spoke to the crew.

Q And after you spoke to them you found out the matter was looked after properly?

A Yes.

Q Now then, this was one of the points you made here as a difficulty. You said in answer to my friend that signals were given directly to the engineman in this area but that you could recall where the operating lever did not open the knuckles or did not get the pin -- I forget your phrase -- and on those occasions one of the ground crew would crawl over the couplers and get the operating lever on the opposite side. Do you remember your evidence on that?

A He got across to the other side, yes.

Q He crawled over the couplers and got the operating lever on the other side?

A I don't know that I said the couplers or how

he got through. I said he went over to the left side to get the pin.

Q How would he go over? You must have watched him. Would he go over the top by crawling over the couplers?

A He could go through the couplers or he could go around the end of the car.

Q He could go to the end of the movement, go around and back up?

A He may, just one car.

Q When any yardman is going over the couplers or between cars he makes certain, witness, that the cars are not going to move, doesn't he?

A Yes.

Q And the best way to make certain is to see that his mate keeps the movement under control by being in the direct view of the engineman?

A Yes.

Q And the usual way when this happens is for the man to go across, get the operating lever on the other side and say to his mate who is right across, 4 feet away from him, "O.K.", and then he gives the signal to the engineman and the engineman never moves until he gets that signal. Is that not the safe way to do it?

A That would be the safe way to do it.

Q That is the safest way to do it?

A That is one way it is done. The other way, they give the signal on the fireman's side.

Q That is the safest way, the way I put it to you?

A It would be the safer way, yes.

Q And the proper way?

A I would say so.

Q Now, witness, you have heard of confusion arising because the signals are started by being given to the engineman and then the ground crew has thrown a signal to the fireman and the engineman is watching for a signal and the fireman is chattering at him and the engineman does not hear. You have heard of cases like that?

A I cannot quite follow what you are --

Q Let me give you an example. The move starts with the signal being given to the engineman. The ground crew then move over to the left side and give the signals to the fireman. The fireman then calls the signals to the engineman and the engineman does not hear the fireman and an accident results. Have you ever heard of that happening?

A No, not in particular at all, I haven't.

Q I ask you to look at Exhibit 218, the discipline of fireman Olsen. I understand from the investigation or I have been instructed that the investigation determined that the engineman, his name was Neilson, was handling a car into the depot and taking signals from yardman, Lacoski. Lacoski -- he had his head out the window watching Lacoski ---

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THE CHAIRMAN: You have got Lacoski watching Lacoski there.

MR. SINCLAIR: That the engineer, Neilson, had his head out of the window watching Lacoski. Lacoski went over to the fireman's side and gave the fireman a signal. The fireman called it to Neilson and Neilson did not hear him. Lacoski gave another signal, a stop signal, to the fireman. The fireman called it to the engineer and the engineer did not hear him. Lacoski gave a wash-out signal and the fireman called that and the engineer did not hear him and they hit and injured a passenger, and as a result of that the following discipline was assessed.

MR. LEWIS: I have no objection to my friend putting the case on record. I just want to draw to his attention -- I am sure he recalls it -- that this witness said he did not know anything about the details of this event.

MR. SINCLAIR: I am recalling them to him, Mr. Lewis.

MR. LEWIS: I appreciate what my learned friend is doing quite well. I am just going to suggest that if he wants to put the details on record I have no objection but they could go on through the file of that case rather than in a story in which my friend summarizes what is in the file.

THE CHAIRMAN: Of course, the whole

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thing would come to nothing if the witness does not recall any of it. I assume it will then be proved in some other way. So often in these proceedings you or Mr. Sinclair put cases before witnesses about which they do not know anything. We will see what the witness has to say.

BY MR. SINCLAIR:

Q Discipline was assessed to the yard foreman whose name was Wasni for failing to supervise the switching movement and to Lacoski for not controlling the switching movement, to the engineman for not stopping when the signal disappeared from view, when Lacoski's signal disappeared from view, and to the fireman because although he could see that the movement was not being controlled he took no action at all to see that the engineman was hearing his call across the cab. After I have recited that, do you remember that case?

A I do not.

Q You do not remember that case?

A I cannot remember what took place.

Q Were you not the local chairman at this time?

A Yes sir, but I didn't sit in on all investigations.

Q Well, there is one case I have given you that I will have to prove in another way and I will

do so.

THE CHAIRMAN: You have given it to the witness, Mr. Sinclair, but you cannot give it from the standpoint of giving evidence. If you want it in it will have to be put in otherwise.

MR. SINCLAIR: That is what I say.

THE CHAIRMAN: The witness does not recall.

BY MR. SINCLAIR:

Q Would you say the situation of a call across the cab not being heard by the engineman is fantastic?

A I decline to make any remark of that nature, sir.

Q As a man who has been around the railroad you have heard of firemen calling across the cab to enginemen and the engineman not hearing them?

A Yes.

THE CHAIRMAN: What the witness is saying is that you do not need the word "fantastic".

MR. SINCLAIR: He has now said to me that it is usual, I would argue.

BY THE CHAIRMAN:

Q I suppose that this kind of a situation, Mr. Colpitts, can result in an accident?

A The situation of -- ?

Q Of a fireman calling a signal to the engineer which the engineer does not hear?

A An indication not heard by the engineer, yes sir.

BY MR. SINCLAIR:

Q You will recall your evidence about Rugby Junction?

A Yes sir.

Q You gave that evidence yesterday, Mr. Colpitts?

A Yes sir.

THE CHAIRMAN: Which exhibit was that?

MR. SINCLAIR: There are so many of them, sir, that I am lost. Rugby Junction is Exhibit 223.

THE CHAIRMAN: I did not mark on my copy where Rugby Junction is. Will you tell me again?

MR. SINCLAIR: The witness, as I recall his evidence, said that, Rugby Junction was the general area starting from the east end of "N" yard out over to the beginning of about "R" yard.

HON.MR.McLAURIN: Is that east or west of the depot?

MR. SINCLAIR: Mr. Lewis advises that it is Exhibit 224. I do not think so.

THE WITNESS: No, Exhibit 223.

HON.MR.MARTINEAU: No, I have written on it, Exhibit 223, Rugby Junction.

THE CHAIRMAN: The area then is everything south of the north lead down to the foot of the plan and over west to the beginning of "R" yard, is it?

MR. SINCLAIR: That is what the witness said, yes.

THE CHAIRMAN: All right.

HON.MR.McLAURIN: Is that west or east of the depot?

MR. SINCLAIR: Phillip Street, I would say, is maybe a mile west of the depot.

HON.MR.McLAURIN: Phillip Street is about a mile from Main Street?

MR.SINCLAIR: Well, it is a good mile. I will double that. I will say it is closer to two miles.

They have checked it here on the time card and it is 1.9, sir.

BY MR. SINCLAIR:

Q Now, the chairman, you will recall, yesterday asked you about this and I will just read your answer to his question as it appears at page 6007 of Volume 42 of the transcript. Your answer reads:

"In this yard movements along these leads, each one converges into the other and you can be working the north lead and still be an obstruction to a man working on the centre lead where the centre lead man can still be an obstruction to the man on the south lead."

The Chairman then asked this question:

"You say the signal tower has nothing to do with preventing that?"

You replied:

"He has no control over that. That is again in itself another feature that has to be watched and guarded against and the fireman is the man you depend on in that territory."

Do you remember that testimony?

A I remember that I tried to explain that,

yes sir.

THE CHAIRMAN: That is, that the signal tower only controls signals on the main line, not on any of these other tracks. That is what I understood Mr. Colpitts to say.

MR. SINCLAIR: That is what he did say.

BY MR. SINCLAIR:

Q Now, that is not correct, is it, witness?

A As I understood the question and the dispute at the time --

Q That is not correct, is it?

A I am not thoroughly familiar with what you have read there yet, at all.

MR. SINCLAIR: Well, I certainly do not want you to be surprised about it.

THE CHAIRMAN: Well, what is the fact?

MR. SINCLAIR: Well, the fact is --

THE CHAIRMAN: No, no. Ask the witness what he knows about the facts as to what tracks the signal controls?

MR. SINCLAIR: Very well.

BY MR. SINCLAIR:

Q Witness, this tower controls movements on what track besides the main line?

A If you come off any one of those leads the signal will stop you from going on to the interlocking plant.

Q And those signals are controlled by the tower?

A Yes, by the tower.

Q And that is part of the interlocking?

A Beyond the signal, yes.

Q And an interlocking makes it impossible for a movement off, we will say, the north lead to conflict with one off the running lead?

A That is the first track from the main line?

Q Yes?

A The westward main line?

Q Yes.

A Yes.

Q All these movements are controlled so that they are operated in proper sequence in accordance with the interlocking. Now, an interlocking -- and I might recall it to you -- is defined in Exhibit 27, the Uniform Code of Operating Rules. I might do well just to recall this to you. It is 116, I am told. An interlocking, it says here, is an arrangement --

THE CHAIRMAN: Page?

MR. SINCLAIR: Page 116 of Exhibit 27.

It reads:

"INTERLOCKING -- an arrangement of signals and signal appliances so interconnected that their movements must succeed each other in proper sequence and for which interlocking rules are in effect. It may be operated manually or automatically."

Now, this is a manual operation from the tower

1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations (1) for arbitrary values of the parameters α and β . It is shown that the system has solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

2. In the second part of the paper the problem of the uniqueness of solutions of the system of equations (1) is considered. It is shown that the system has a unique solution for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

3. In the third part of the paper the problem of the stability of solutions of the system of equations (1) is considered. It is shown that the system has stable solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

4. In the fourth part of the paper the problem of the asymptotic behavior of solutions of the system of equations (1) is considered. It is shown that the system has asymptotically stable solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

5. In the fifth part of the paper the problem of the periodicity of solutions of the system of equations (1) is considered. It is shown that the system has periodic solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

6. In the sixth part of the paper the problem of the bifurcation of solutions of the system of equations (1) is considered. It is shown that the system has bifurcating solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

7. In the seventh part of the paper the problem of the global existence of solutions of the system of equations (1) is considered. It is shown that the system has globally existing solutions for all values of the parameters α and β if the function $f(x)$ is continuous and has a bounded derivative.

with powered switches; that is correct, is it not?

A That is correct.

THE CHAIRMAN: You and the witness may understand it but I do not because the understanding I got yesterday was that the only movements that were controlled by the signal from the tower were on the main line and now I understand -- and I may not yet understand it -- that all the movements on all these tracks north of the west main line are similarly controlled in so far as they may come out of the yard on to any lead or leads.

MR. SINCLAIR: Well, what the witness said, sir, is that there could be conflict between the movements on the various leads, one with the other yesterday.

THE CHAIRMAN: Let us deal with what do the signals control?

MR. SINCLAIR: They control movements, as the witness has agreed, so that there cannot be conflict with movements from these leads.

THE WITNESS: The running lead.

MR. SINCLAIR: And the centre lead and the north lead? All these lead tracks are controlled by the interlocking.

HON. MR.MARTINEAU: I do not think that is what he said.

Mr. SINCLAIR: That is not what he said yesterday, absolutely not. That is why I read in

the evidence. He said the contrary.

HON. MR.MARTINEAU: I do not think he said that today. He said they protect the running lead -- it prevented anyone coming from the north lead or the centre lead or the south lead into the running lead but it did not protect the traffic from the north lead as against the centre lead.

THE WITNESS: No, no! Well, it will, because you have to get into the interlocking before you can get over to the centre lead.

MR. SINCLAIR: Yes, and that is the point.

THE WITNESS: That is the point I tried to make clear here.

MR. SINCLAIR: That is why I read in the evidence because I was under the same impression as the Chairman said he was under and I checked the transcript.

BY THE CHAIRMAN:

Q Well then, no movement on the north lead or the centre lead or the south lead or the running lead can conflict with a movement in any of those leads because they are all controlled by the signal tower?

A Not particularly, sir, because they can conflict with one another on those leads, except for the running lead through the crossovers that they have between these respective leads. That is the point I was trying to make.

BY MR. SINCLAIR:

Q Let me see if I can assist here. The point is

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that there are four leads. You have mentioned four leads here?

A Yes.

Q You numbered them starting at the top A, B and C and you did not put the D on? D is what we can put on the running lead.

A We had the confusion yesterday because of that, yes.

Q So now we have A, B, C and D. Now, two of those leads join together to make one lead at the interlocking?

THE CHAIRMAN: Which two?

MR. SINCLAIR: The north lead and the so-called centre lead.

BY MR. SINCLAIR:

Q Is that correct?

A Yes.

Q The other leads are individual leads through the interlocking, correct?

A (No audible answer).

Q So that you finish up with the interlocking controlling three leads, correct?

A If you come through the crossover from the other lead -- that is the centre lead to the south lead, you will go from one movement to another there.

Q There can be no conflict between a movement on the north lead which becomes the north centre -- that becomes one lead. This plan here is very hard to follow, Mr.Chairman.

A Yes, it is.

MR. SINCLAIR: This plan, this sketch, Exhibit 223, is extremely difficult to follow, Mr.Chairman.

THE CHAIRMAN: Yes, but we have to follow it.

MR. SINCLAIR: Yes, I know, and that is why I am spending this time, sir, because the evidence on the record is not correct and I do not think the witness meant it to be what it is.

BY MR. SINCLAIR:

Q The north lead and the centre lead become one lead as it goes under control of the interlocking; correct?

A It becomes one lead -- one point -- in advance of the signal at the interlocking, yes.

Q So the interlocking controls completely what I am going to call the north centre lead, being one; the south lead, being two; and the running lead, being three?

A As to movements of cars, yes, but you can get one engine in there to cross over on to the centre lead.

Q The only conflict that could possibly arise would be between the north lead and the centre lead where they join to make the one lead in the interlocking?

A That conflict and the crossover from the centre lead to the south lead.

Q The centre lead to the south lead? Well, witness, are you sure of that?

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A Yes.

Q Because even on this sketch --

A As I call it, the south lead, anyway.

MR. LEWIS: You are now consulting the art work on the bulletin board, Mr. Sinclair.

MR. SINCLAIR: I am not consulting Mr. Lewis' art work at all. I did not know he did this one because it is not up to the excellence of some of the others we have had.

MR. LEWIS: Just so long as I have got it I can now inform my friend I did not do any of it, I was just protecting my associate.

THE CHAIRMAN: I thought you were going to give him credit.

MR. LEWIS: No, no.

MR. SINCLAIR: I thought he was claiming credit for this one, too.

MR. LEWIS: I claim no credit!

BY MR. SINCLAIR:

Q Witness, this interlocking prevents conflicting movements between the three leads as I have given them to you?

A Anything more than one engine -- one engine can go from the north lead and get on to the centre lead.

Q Without -- ?

A Without bothering the interlocking.

Q Without touching -- without being controlled by the switch?

A By the interlocking. He can just get in between.

the signal and the switch to make the move.

Q Well, would he not encounter a red signal as he went into the interlocking?

A As he advances to the signal it would be red but he could get in between the signal and the switch which would put him over on to the centre lead.

Q Oh, what you are saying is that the signal would control the interlocking and he would stop?

A Yes, before he got to the interlocking but he would still have access to the centre lead.

Q Would you say that if he got a red signal he would run it?

A No, I say he would stop in advance of it.

Q Are you suggesting, witness, that if there was a movement there that was shown by the interlocking point signal, somebody would throw the crossover switch and bring an engine down there?

A I am saying that you could go down the north lead to the signal --

Q Yes?

A -- clear the switch and proceed again forward. You would back down the north lead to the signal and proceed again forward because you clear the switch in order to put you back down this centre lead.

Q But you would have to throw the crossover to do that, would you not?

A No, it is just one switch and one lead leads on to the other.

BY HON. MR. MARTINEAU:

Q You say there is enough space between the interlocking switch at B for the movement to come forward and then go back again?

A Yes, just for the engine.

BY MR. SINCLAIR:

Q You mean a light engine can squeeze through?

A That is it.

Q But in respect of all other movements, with respect to all movements on the running lead, that could not happen?

A Then you have to cross over --

Q Could that happen, so we can follow this?

A Could what happen?

Q Could somebody squeeze by and come up one of the other leads conflicting with a movement on that lead?

A Yes.

Q They could?

A Yes. You could come in on top of a movement that was taking place in the centre lead.

Q When were you at this place last?

A Pretty near all the tramp engines --

Q When were you last at this place?

A Shortly before I left Winnipeg, late in April.

Q Do you know how to read schematic diagrams of interlockings?

A No, sir.

BY THE CHAIRMAN:

Q What would a light engine come down the north lead and back into the centre lead for if there was a movement already taking place on the centre lead?

A He would get instructions, if he is a tramp engine, he could be coming down there from the yardmaster's tower, the yard tower, to pick up a car in a certain track, or something of that nature.

MR. SINCLAIR: I do not know if I am following the witness properly or not. I thought I understood his evidence yesterday and

I think he now says that evidence is not what he meant to give. In this instance he has now put in something else about engines squeezing by between the north lead and the centre lead, light engines which, as I say, I think could be done because the north and centre leads become one lead for the interlocking. Then, when I asked him whether there could be conflicting movements between what I call the north centre lead, that is one lead, and the south lead or the south lead and the running lead or any combination of those three leads, he says yes, there could be.

BY MR. SINCLAIR:

Q Are you sure of that?

A Yes, there could be what?

Q Conflicting movements with a movement from one lead conflicting with a movement on another lead?

A Yes, it is possible in that territory.

Q Even though in doing so you have to come within the interlocking area?

A You can advance right to the interlocking area on any one of these tracks, but you could still have a conflicting movement from either light engines or from the crossover from the centre lead to the south lead, as I have called them here.

Q Well, if that is so, then you would have

three men on the ground protecting that engine movement, correct?

A The light engine, yes.

Q You are going to have three men there when you squeeze this engine through, and are you saying you need a fireman in addition to those three men to watch that kind of situation; is that your evidence?

A I am only trying to show that it is possible to have at least two or three movements in that territory at one time, which could move on to one another.

BY THE CHAIRMAN:

Q That is not just the point you are asked now. You are asked whether you need the three yard crew and the fireman in order to protect that particular movement. Would you deal with that?

A I am sorry, I did not understand the question exactly.

BY MR. SINCLAIR:

Q Well now, will you answer it?

A Will you ask me the question again?

THE CHAIRMAN: Mr. Colpitts did not understand it.

BY MR. SINCLAIR:

Q You were saying it was possible for a light engine not to come within the interlocking area but to conflict with a movement on the centre lead or on the south lead, a

light engine?

A Yes, you have your light engine.

Q I asked you whether that light engine would not have with it a ground crew of three and your answer to that was yes?

A Yes.

Q My next question was, are you saying to this Commission that you need a fireman, in addition to that ground crew of three, to protect such a movement?

A Not that particular movement.

Q Now, on Exhibit 223 again, at another part of your evidence I think you said that the fireman -- perhaps, Mr. Chairman, we could take five minutes now.

--- Recess.

D. R. COLPITTS, recalled.

EXAMINED BY MR. SINCLAIR:

Q We were just looking at Exhibit 223. Yesterday and again this morning in answer to me you said that in your opinion firemen were useful to get signal indications at Rugby Junction?

A Yes.

Q And I think yesterday you went on to say that when you were backing down the running lead the fireman would control your movement in regard to entering the interlocking by telling the engineman what the signal was?

A I do not recall saying he would control; I said he would protect. I believe, and I may stand corrected, but I believe I said he would protect the signal indication.

Q He would be alert for that, is the note I have. Again this morning when you were telling me what he did it for you said you needed the fireman because he had to get the signal indication at the interlocking. Let us put it that way. Is that your evidence?

A In reference to my running the engine it would be his responsibility as well as mine to see what the indication was.

Q Now as I understand your evidence you

have a responsibility too to see that signal indication?

A Yes. If it is red I will verify it for myself.

Q You will always observe and make a positive identification before you get to that signal?

A If I am notified the signal is red I will immediately look at it.

Q Never mind about being notified, I am asking you whether you running this engine cab first down any of these leads entering the interlocking would not yourself as engineman make a positive identification of that interlocking signal before you got to it or before you were anywhere near foul of it?

A Yes, sir.

BY THE CHAIRMAN:

Q That is regardless of the fireman?

A Regardless of the fireman. I would know for myself too, sir.

BY MR. SINCLAIR:

Q Then Exhibit 220. You explained to the Commission that there was a difficulty here in your opinion because of the diamond which results from the westerly extension of Track No. 8 and the east coach yard lead?

A Yes.

Q You remember that evidence?

A Yes.

Q You had a move set up in which a draft of passenger equipment would be pushed down to the coach yard lead at the same time as a draft of passenger equipment was being pulled by an engine down to Track No. 8. That would be a movement that would be running on Track No. 8 cab first and the movement on the east coach yard lead, which would be with passenger equipment on the nose of the engine; correct?

A Yes.

Q Do you remember your evidence?

A Yes.

Q Now, these crossovers that are shown here, witness, and the diamond, not only at the extension of 8 and the east coach yard lead but on the extension of 7 and the east coach yard lead; that is, two diamonds and the crossovers are handled by switch tenders. When these movements are taking place there are two switch tenders on duty at those locations; correct?

A There are.

Q So on the move you described there would be a switch tender and yourself in the cab or some other engineman in the cab of the movement backing down to Track 8; a

yardman on the point of the movement on the east coach yard lead protecting against each other, and the man in control being the switch tender?

A That is correct.

Q Are you serious in suggesting that in addition to that type of protection you need a fireman there to make that move safely?

A I am; not only that move --

Q I am asking you about this move.

A I am.

Q Well, you might have an army around; do you think that would make it safer?

A I don't understand that question.

Q You are not seriously suggesting that when a switch tender is protecting the diamond when you are backing down Track No. 8 cab first that you need a fireman to tell you what the situation is at the diamond?

A Yes, sir.

Q You know this diamond is there?

A Yes, sir.

Q You know the switch tender is there?

A He is supposed to be there, yes.

Q You know if there is a conflicting movement it is his responsibility to be there, witness?

A I know that, yes.

Q Now, one other point on this Exhibit 220. You talked about firemen being used as signal passers in the depot tracks. Do you remember that evidence?

A Yes, sir.

Q Now, pushing into the depot tracks you sometimes have one car, you sometimes have more than one car; sometimes you have five cars and sometimes you have eight cars?

A Yes, sir.

Q When you start this movement and the switch tender clears you through the diamond --

THE CHAIRMAN: Are you still on Exhibit 220?

MR. SINCLAIR: Yes.

BY MR. SINCLAIR:

Q The switch tender clears you through the diamond and you go up into the depot tracks, you push up into the depot tracks; you are not doing any switching, you are just moving equipment?

A That is correct.

Q And you have three men riding on that equipment?

A Yes.

Q Waiting until they get to the place where you are going to make the

coupling in the depot; correct?

A Three men waiting in the depot?

Q Three men riding on the draft of cars waiting until you get to the depot to make the coupling of the equipment, is that right?

A They are giving signals on the way up to the point where we are going to take --

Q The whole three of them are giving signals?

A They are giving signals, yes.

Q I asked you if the whole three of them were giving signals?

A Yes, as I must assume, because it was on the left side, the fireman's side.

Q You do not know how many were giving signals there as a matter of fact?

A No, I could not say, but it is quite usual that these switching crews in the coach yard are all on their jobs.

Q Do you think that you need three men in sequence to pass signals from the point of this movement to the engine?

A At times switching there, yes.

Q How many cars would you have to have to have a three-man sequence to get signals to the engine?

A I could not say because it would be on the other side.

Q I am asking you to tell me if you had eight cars whether you would need three men to be in the signal sequence to get signals from the point to the engine?

A I would say yes.

Q Have you ever tried it?

A Tried what?

Q How many men are required to pass signals from the point to the engine?

A No, I have never tried it.

THE CHAIRMAN: I suppose you are speaking about a movement backing up pulling cars along 8 and out of the east coach yard lead into some of these tracks to the west; is that what you have in mind?

MR. SINCLAIR: No, sir. What I was putting to the witness was a move that he spoke of, that is pushing cars from the coach yard easterly to the depot.

HON. MR. McLAURIN: Past the diamond?

MR. SINCLAIR: That is right.

THE CHAIRMAN: On No. 8?

MR. SINCLAIR: On any of the tracks into the depot. The witness said that sometimes they have one car, sometimes two cars, sometimes up to eight cars.

HON. MR. McLAURIN: How far is the diamond west of the depot, roughly?

THE WITNESS: Twelve cars, or

about twelve coaches I would say; could be fifteen, twelve or fifteen coaches.

MR. SINCLAIR: The question I put to the witness was whether in his opinion to get signals from the point of the movement to the engine would require three men in the sequence, and his answer was as I got the purport of his testimony that he did not know because as far as he was concerned they were on the other side.

BY MR. SINCLAIR:

Q Is that correct?

A As I understood your question. I did not understand your question as to what it meant and therefore I said I didn't know.

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--

--

HON. MR. McLAURIN: Are the signals ever passed there on the engineman's side?

BY MR. SINCLAIR:

Q Are the signals ever passed on these moves direct to the engineman?

A When you make certain straight moves back, yes.

Q When you are taking cars from the coach yard to the depot?

A From the coach yard to the depot after you get over the diamond and through the cross-overs, on the left curvature into all tracks you have the fireman taking the signals.

Q That is not what Mr. Justice McLaurin asked. He asked you in making these moves into the depot are the signals ever passed directly to the engineman?

A From the coach yard to the depot, yes, or no -- I should say no, because they are passed to the fireman.

Q You are going to swear they never pass signals to the engineman?

A No sir, I am not, but on the left curvature they are passed to the fireman.

Q You are going to say that if they have one car, just because there is a left curvature they give the signals to the fireman?

A No sir.

Q What you are saying is that sometimes the signals are given to the engineman?

A Yes.

Q Sometimes even when there is a left curvature they are given to the engineman, but sometimes when there is a longer draft of cars and there is a left curvature they give them to the fireman?

A That is correct.

Q That is your evidence?

A That is correct.

Q And the fireman is necessary there in your opinion only when the cut of cars or draft of cars exceeds some number? Correct?

A No, I would not say that.

BY THE CHAIRMAN:

Q Well, what do you say, Mr. Colpitts?

I cannot understand what you are saying.

A If I understand what Mr. Sinclair is saying --

BY MR. SINCLAIR:

Q I am not saying anything. I am asking you.

A All right, then you ask me again and then we will understand.

Q Very well, Mr. Colpitts, we will go through it once again. As I understand your evidence as you have given it here with regard to moves of pushing cars into the Winnipeg depot it is this so far as signal passing is concerned: First, that sometimes the signals are passed directly to the

engineman?

A Right.

Q Second, sometimes where there is a left curvature if you only have one car or a few cars the signals are passed directly to the engineman?

A That is correct.

Q Third, sometimes when you have more cars, a longer draft, and there is a left curvature the signals are passed to the fireman?

A In the majority of cases in cases of that kind with more cars, longer trains, they are passed to the fireman.

Q That is as I understood it. Then, witness, you summarized the situation, and that is what caused the difficulty, by saying that the fireman was required to take the signals in this situation only when you had a long draft of cars and left-hand curvature?

A Yes, and when platforms are on that side, on the fireman's side.

Q That is another qualification. Even then, I suppose what you are saying is that with the longer draft of cars if the platforms are on the engineman's side they will work from that side. Is that what you are saying?

A No.

Q I make this further suggestion to you on this move at the Winnipeg depot. If the

move was made so that the man on the point and the man between the point and the engine passed signals to the third member of the ground crew who was on the engine in the view of the engineman that move could be made safely and efficiently? You would agree with that?

A I cannot fully agree with that, Mr. Sinclair.

Q Well, why not?

A Because I can remember an occasion where shoving up to the depot the fireman warned me of an express wagon in our path. I slowed down and was stopped before I got a stop signal from the man that was at the engine on the right-hand side.

Q You are not suggesting now, Mr. Colpitts, that firemen in the Winnipeg yards are more observant, are more conscious of people being fouled or of cars being fouled or of anything being fouled than are the yardmen? That is not your suggestion to this Commission, I hope?

A That is not my suggestion. That is an actual happening.

Q You are going to swear here that the firemen in the Winnipeg terminals are more alert to conflicting movements, to cars being fouled, to obstructions to movements, than are the yardmen?

A I am not inferring that, sir. I am inferring that the situation as I outlined it --

Q Did happen?

A It did happen.

Q You have one case that you say that did happen. That is what your evidence is based on in regard to this matter?

A It is just an explanation of the value of firemen.

Q You explained this morning to Mr. Lewis at one time that you were not a switchman and you had no experience in positioning ground crews or anything of that nature. That is what I took from your evidence. That is correct?

A I don't profess to know how to place them, no.

Q Now, you were a fireman on hand-fired power?

A Yes sir.

Q Did you ever fire a 2900?

A Yes sir.

Q The F-1? That is correct?

A Correct.

Q Were you ever a fireman on a 2800?

A Yes sir.

Q That is stoker-fired power?

A Oil now.

Q But did you have it when it was stoker-fired?

A Yes sir.

Q Were you ever on a hand-fired P-1?

A No, I wasn't on a hand-fired P-1.

Q This time you told the Commission about when running between Winnipeg and Minnedosa via Portage La Prairie when you shovelled some 28 tons of coal, what type of engine did you have?

A A D-10 engine.

Q Do you know what the tender capacity of a D-10 is?

A Twelve tons, as I have understood.

Q And on that trip you stripped the tender completely more than twice? Is that correct?

A I stripped the tender within half a ton of Portage La Prairie -- not just myself; the brakeman and the engineer assisted me.

Q You mean the whole three of you were down on the deck firing?

A We were all taking spasms at it, yes.

Q And when you were moving across the road with just two men when the other member of the three-man crew was on the deck, did you feel unsafe, Mr. Colpitts?

A We wanted to get that train somewhere. Although it was slow going we wanted to get it somewhere.

Q I asked you if you felt unsafe?

A No sir, I was too busy trying to get steam.

Q You said that when you were hand-firing you were always taught to get the signals, to be on your seat going through towns and over crossings?

A Yes sir.

Q And were you always there?

A I made it a practice to be there.

Q You never missed?

A As much as I could be there, yes. I may have missed one or two. I won't say I never missed but that was my method of firing.

Q It was quite a usual thing when firemen were busy hand-firing engines on some of these divisions, Mr. Colpitts, for them never to see a signal over an entire division? That is correct, isn't it?

V-2

A Never to see a signal quite common for firemen -- well, I wouldn't be prepared to make a comment on that, sir.

Q Did you ever know of Mr. J.S. Lowden? He was for many years general chairman of your Brotherhood on the Canadian Pacific, Jim Lowden?

A Yes, I remember the name. I have read some of his correspondence while he was general chairman.

Q I have in my hand a letter from Mr. Lowden dated February 4, 1938. I should like to file this as Exhibit 228.

EXHIBIT No. 228 -- Letter dated
February 4, 1938,
from Mr. J.S.
Lowden to Mr.
W.A. Mather,
General Manager,
Canadian Pacific
Railway.

MR. SINCLAIR: It is a letter from
J.S. Lowden, general chairman of the firemen's
union to Mr. Mather, General Manager of the
Canadian Pacific Railway dated February 4, 1938.

THE CHAIRMAN: That is a little before
the witness' time, isn't it?

MR. SINCLAIR: Just as he was
starting.

MR. LEWIS: Just as what?

MR. SINCLAIR: He started in 1939.

THE CHAIRMAN: 1938 is still before
1939.

MR. SINCLAIR: Maybe all the fire-
men changed between 1938 and 1939 but I would
argue that that would not be so. In any event,
I want to read to the witness an extract from Mr.
Lowden's letter, Exhibit 228, and ask the witness
for his comment.

BY MR. SINCLAIR:

Q It is on page 3, Mr. Colpitts, and Mr.
Lowden is quoting from a local chairman.

"Under date of February 1,
1938, the following was received:

'I was directed to again
refer to you the question of fuel

'and the experience we have in getting steam under the conditions which prevail; I am now in the freight pool and in a position to relate my own observations. Certainly conditions are desperate, and it is particularly so on account of the tonnage being hauled on the westbound run, an instance of this is my last trip west, we had 2,406 tons, 'A' rating being 2,850, the temperature on reaching Broadview was 23 degrees below zero; this is about the average and the running time is from 6 to 9 hours, obviously a fireman never leaves the fire door, this means that he never sees a signal and is usually behind the game with the steam, we just cannot measure up to requirements.'"

Then I turn to the next page, page 4, the first complete paragraph.

"'Considerable difficulty is being experienced with the new engines, particularly the 2900's they are plugging the

"front end netting and consuming a lot of coal, experiments are continually being made to improve their defective conditions; the 2800's are consuming a very great deal of this fuel and their performance seems much below the old 2800's."

In that paragraph he is dealing with passenger engines? Correct, Mr. Colpitts?

A I couldn't say at that time.

Q The 2900 and 2800 are passenger engines?

A Well, they could be used in freight too.
I couldn't say.

Q They were built for passenger service, were they not?

A I don't know, sir.

Q He continues:

"My observations are that the rose-bud grates will not produce proper combustion with the fuel now being supplied, and unless the engine is being worked with a long cut-off and wide throttle, the coal will coke and it is almost impossible to break it up with the poker; I have often shaken the grates and cleaned the pan and then looked up through the damper at the grates, and there one can see bright fire between the grates but the vent holes are filled with ashes."

Did you ever have that experience, Mr. Colpitts?

A On some occasions, different trips, we may have that condition.

Q And when you are having trouble like that you are down there with the poker and with the shaker bar and with everything you have got, isn't that right?

A That is right.

Q And you are not worrying about lookout or anything else; but you are looking to the job of getting steam and getting the engine across the road and the train and you are doing the best you can?

A You are using everything you have got there besides the coal pail and trying to do the best observance you can make as you go along.

Q But your observance of the road becomes a very

secondary thing under those circumstances to a fireman, does it not, Mr. Colpitts?

A In my own instance, I endeavoured, as I said before, to watch every crossing --

Q Yes, you "endeavoured"?

A Yes sir.

Q But when circumstances like those developed you got down there and made steam for the engineer?

A I made steam as best I could.

Q Yes, that is what you did, and everything else became secondary to keeping up steam and getting that train over the road?

A Usually when --

Q Is that right?

A Usually when difficulties like that occur the brakeman is prepared to spell you off. He sits in your seat and will look ahead.

Q Well, you would not be worrying about signal observance when the brakeman was looking out, would you? You would look after the steam?

A I would. I would for my own benefit, as well as anyone else's.

Q You would look after the steam, would you not?

A I would look after the steam, yes, and my part of the job as well as I could.

Q And when you were looking after the steam that is all you were doing?

A And the road crossings as best I could.

Q And the road crossings as best you could?

A Yes, and through towns, too.

THE CHAIRMAN: Are you finished with this subject, this particular subject, Mr. Sinclair? If so, I think we will adjourn now.

MR. SINCLAIR: I just wanted to check my notes. I thought I was just about finished with the witness but if there is anything else I can conclude tomorrow. I may have some more questions for the witness.

THE CHAIRMAN: Very well; we will adjourn now.

-- The Commission adjourned at 4.03 p.m. until 10.00 a.m. Thursday, May 30, 1957.

ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY

44

PROCEEDINGS

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FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at Ottawa,
Ontario, Thursday,
May 30, 1957

PRESENT:

Hon. R. L. Kellock,	Chairman
Hon. C. C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A. R. Winship,	Asst. Secretary

APPEARANCES:

D. W. Mundell, Q.C.,	Representing the
C. J. A. Hughes, Q.C.,	Commission
I. D. Sinclair,	Representing the
Allan Findlay,	Canadian Pacific
	Railway Company
David Lewis,	Representing the
	Brotherhood of
	Locomotive Firemen
	and Enginemen

Thursday,
May 30, 1957.

44th DAY

MORNING SESSION

-----The Commission resumed at 10.00 a.m.

1847

1848

1849

1850

1851

1852

1853

1854

1855

1856

1857

1858

1859

1860

1861

• D. R. COLPITTS, recalled.

EXAMINED BY MR. SINCLAIR:

Q Mr. Colpitts, would you look at Exhibit 224? As I recollect your evidence in connection with this exhibit it had to do with the movement of light engines coming in and being cut off trains and their movement either to the diesel shop tracks or to the steam shop tracks. Do you recall that evidence?

A Yes, that is one movement.

Q That is what your evidence was in connection with this exhibit?

A Yes.

Q Mr. Colpitts, these light engines as they are taken from their trains at the east arrival yard or at the west arrival yard are accompanied by the head trainman?

A Yes, sir.

Q It is his duty to herd these engines to the shop tracks?

A Yes, sir.

Q Will you look at Exhibit 225? Your point in connection with that exhibit was that the switches which are shown on Exhibit 225 were left lined for the sidings and one of the ground crew stayed at those switches?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q And the movement went back into the industries with a ground crew of two?

A Well, as I find now, with only three men on the crew that would be as I understand it.

Q It is quite possible to line switches A and B back into their normal position and for the engine follower or whoever was protecting the switch to accompany the movement?

A I believe I mentioned there is a heavy down grade there and should you stop while backing up onto the main line you are liable to stall.

Q I suggest to you, witness, that if the switches are lined to their normal position so that any move could come down the main line of the railway at this point, and that is what the spurs run off, the engine follower could accompany the movement in at his switch and then walk out ahead of the movement to get the switch?

A Yes, sir.

Q Actually here you are only handling two or three cars at a time?

A I would not say two or three at a time.

Q You say you are handling more than that?

A Could happen you handle more than that.

Q Well, four?

A I would not specifically state.

Q You are not moving a lot of cars in any event?

A Not to any great extent as to the drags of cars, no.

Q Do any of the ground crew get on top of the cars on this switching movement?

A Not as I recollect.

Q There is nothing to stop them from getting on top, there are no overhead restrictions?

A I could not answer that one because I have not noticed any overhead restrictions.

Q Will you look at Exhibit 226? This is a move where a draft of passenger equipment is taken from the east end of the Winnipeg depot and moved easterly and then southerly, according to your evidence on the Emerson, and then switched back up; so as to handle this equipment there is a pull-down movement down to the Emerson and then a back-up movement, this being used as a wye?

A Yes, sir.

Q I think you called it the Whittier?

A Whittier Junction.

Q You said that because of the Canadian National overpass, when you were making

your back-up movement the signals were relayed through the fireman?

A Yes, sir.

Q Rather than having the crew fan out on the west side where if they did they would be in direct contact with the engineman?

A I believe I said it could be accomplished on the west side of the Emerson main line.

Q And give signals direct to the engineman?

A Yes.

Q Also it is possible to use the Lac du Bonnet as a leg of the wye?

A Yes.

Q And it is possible to go around that without any difficulty at all with as much as eleven cars and have the signals relayed directly to the engineman. You have done that?

A At that end of the movement after passing the Canadian National high line the signal protecting the east and west main lines is on the fireman's side of the curvature onto the Lac du Bonnet.

Q Pardon me, witness, I think you have misunderstood me. What I am saying to you is that you could use the Lac du Bonnet as the first move of the wye to operate in the opposite direction to

which you did?

A I have not turned cars on the wye in that procedure.

Q I am instructed that tests have been made and that that is done and the towerman at Whittier says that that is quite a usual procedure, to use the Lac du Bonnet part of the wye. You say that is wrong?

A I have no recollection of that being done, sir.

MR. LEWIS: Would Mr. Sinclair indicate just what he means?

MR. SINCLAIR: He says he has not turned cars there so I will get the evidence from another witness.

BY MR. SINCLAIR:

Q Exhibit 227, have you that before you? That is the last exhibit filed. Your point in regard to this was that because of the curvature into Swift's and Canada Packers, with cuts of cars as much as 30 to 35 the crew would position themselves and use the fireman as the signal passer?

A Yes, sir.

Q Do you remember that evidence?

A Yes, sir.

Q Then you made reference to Paddington, which is shown on the left side of the

exhibit, Exhibit 227; that is south of the switch; correct?

A That is at the extreme left of the sketch.

Q There is a wye there, is there not?

A Yes, sir.

Q And how far would the Paddington wye be from Swift's?

A The road crossing?

Q No, the Paddington wye; how far is that from Swift's, the wye that is shown here at the top, at the extreme left of Exhibit 227? How far is that from Swift's? It is not very far, is it?

A I don't exactly understand your point here, Mr. Sinclair.

BY THE CHAIRMAN:

Q I think what Mr. Sinclair means is that looking across the plan from the Swift tracks to the Paddington wye how far would you say that was, in yards or anything?

A I would say it would be about 30 or 35 car lengths.

BY MR. SINCLAIR:

Q Now, Mr. Colpitts, when you were giving your evidence with regard to switching into Swift's and Canada Packers you said you had your engine headed south; correct?

A Yes.

Q And because of that you said you ran into difficulties. Now, it is quite easy to go over the Paddington wye and turn your engine so that it would be headed north?

A Yes, sir.

Q As a matter of fact, Mr. Colpitts, one crew over there, working over there have asked permission when they are making moves that make it difficult to give signals direct to the engineer to have the right to go over and turn their engine at the Paddington wye. You never did that?

A Not to my knowledge do I know of any occasion that it has been done.

Q It is quite possible?

A It is, sir.

THE CHAIRMAN: Under those circumstances the engine would be at the head of the movement?

MR. SINCLAIR: No, sir. They would push their cars into the spur, but instead of the curvatures being as the witness explained them, they would be the opposite. The point I was making is that if the engine was turned one way, the fireman would be used, but if you turned the engine the other way then signals could be given direct to the engineman.

MR. LEWIS: The push would be attached to the cab end.

MR. SINCLAIR: It would mean that the engine instead of being headed south would be headed north.

THE CHAIRMAN: You mean that although the engine and cars are proceeding south on the Emerson main line, by using the wye and/or -- to use an expression I hate -- the Paddington wye, you would turn the engine around and the engine would be pushing the cars ahead of it into Swift's?

MR. SINCLAIR: Yes.

THE CHAIRMAN: That would have the effect of having the engineer, instead of being on the west side of the engine he would be on the east side of the engine and in position to receive signals that are now being given to the fireman, according to Mr. Colpitts?

MR. SINCLAIR: Correct.

THE CHAIRMAN: Would you just detail how that would be done in the Paddington yard? We do not follow it although perhaps it is not important.

MR. SINCLAIR: You mean how you would turn the engine on the wye?

THE CHAIRMAN: Yes.

MR. SINCLAIR: Like the witness, I am not a switchman, but I can say how I would do it. The engine is pointed south.

You would go down to the main line of the Emerson --

THE CHAIRMAN: Pulling the cars?

MR. SINCLAIR: Pulling the cars. You would cut them off. There are two ways of doing it, but I will do it this way. You come down to the Emerson, cut your engine off, then back down the wye.

THE CHAIRMAN: That is the south leg of the wye?

MR. SINCLAIR: The south leg of the wye. Then you back up the wye.

THE CHAIRMAN: To the working lead?

MR. SINCLAIR: The words there are "working lead."

THE CHAIRMAN: The engine would still be turned the same way?

MR. SINCLAIR: I have got it backing up now.

THE CHAIRMAN: Cab first?

MR. SINCLAIR: Cab first. Wait a minute, I will start again. What I would do is come down the line and use the crossover. That is where I made my mistake. Come down the main line, go through the crossover at D, down the working lead and then back up the south leg of the wye, and then along the main line. Now I have turned my engine.

THE CHAIRMAN: Then you go on the main line. How do you get into Swift's from

the main line?

MR. SINCLAIR: You go back to A and use the crossover.

THE CHAIRMAN: Where is A? Is that away over to the right?

MR. SINCLAIR: That is right. Then I can switch my cars. I am quite sure there are other ways of doing it, but that is one way.

THE CHAIRMAN: There is a little perambulation in that.

MR. SINCLAIR: It is not very far, sir.

BY MR. SINCLAIR:

Q Now, witness, yesterday morning I think it was -- before I come to that, I think you defined yard speed in answer to a question by Mr. Lewis; do you remember that?

A I believe I recall that.

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- Q It is set out in Exhibit 27. It is half the length of vision. You have to control your speed to half the length of vision. Isn't that correct?
- A Yes, sir.
- Q "A speed that will permit stopping within one-half the range of vision". That is page 9 of Exhibit 27. Witness, if you are not looking in the direction of movement, as engineman how can you comply with that rule?
- A In what instance would that refer, sir?
- Q Any time that you are not looking in the direction of movement?
- A As an engineer?
- Q Yes?
- A Switching on a lead?
- Q If that is the example you wish to take, yes.
- A The switchman being forward of me, that is, in advance of me?
- Q You are backing cab first down the lead.
- A Yes sir, with the switchman in advance of me on the lead.
- Q You are backing down the lead. You are looking along the cars; you are not looking in the direction of movement?
- A This is not a switching movement then. You are not engaged in switching, just dragging cars from one yard to another.
- Q Or moving on the lead until you go down say two or three tracks or four tracks or five

tracks?

A In a switching movement on the lead the majority of my attention will be on the signals from the switchman. I will rely on the fireman in that the protection of the rule you specify will be adhered to.

Q You think that the rule means, I take it, that when you are making a back-up movement on the lead it is the fireman who complies with the rule?

A No sir, I must comply. I say the majority of my attention will be on signals being given by the switchman. The majority of the fireman's attention will be to the rule itself and therefore he will assist me and I will rely on him to notify me of any conflicting movements.

Q Witness, I wish you would try to tell me whether or not the frank answer to the question I put to you is not that that rule requires the engineman to satisfy himself as to what is before him in the direction of movement or he has to stop?

MR. LEWIS: What rule, Mr. Chairman?

MR. SINCLAIR: The yard speed rule.

THE CHAIRMAN: Which one is that again?

MR. SINCLAIR: Page 9.

MR. LEWIS: On page 9 all my friend has is a definition of yard speed. What rule is he asking the witness to discuss?

MR. SINCLAIR: If my friend wants the rules --

THE CHAIRMAN: You are talking to the witness about a rule.

MR. SINCLAIR: Well, yard speed applies in a number of these rules and I am asking the witness.

THE CHAIRMAN: Then read out the rule. You have given the witness the definition of yard speed. Now you are asking him how can he proceed at yard speed, that is, so as to stop within half the limit of his vision, if he is not looking?

MR. SINCLAIR: That is right.

BY THE CHAIRMAN:

Q Do you understand that question?

A Yes, sir.

Q Would you just deal with that?

A That will be accomplished in co-ordination between the fireman and myself.

BY MR. SINCLAIR:

Q You will not make the observation yourself?

A I will. I haven't said I wouldn't make that observation.

Q Then I will give you the rule I had in mind. It is rule 105, page 64.

"Unless otherwise provided, trains or engines using other than a main track must proceed at yard speed."

A Yes, sir.

Q You say that in doing that it is a matter that you satisfy yourself before making a move that you can stop in half the distance that you can see is clear?

A Yes sir, because it says, "Unless otherwise provided", and I use that in reference to the fireman.

Q You are not serious in that answer, are you?

A Yes, sir.

Q Very well. I forget what exhibit number it is -- maybe somebody can tell me -- but "unless otherwise provided" has been defined by the official interpretations to include those tracks equipped with automatic signals in operation and indicating permissible speed.

THE CHAIRMAN: What are you reading from?

MR. LEWIS: I don't think it has been filed as an exhibit. I am not sure.

MR. SINCLAIR: Yes, I was asked and did file it.

THE SECRETARY: What is the title?

MR. SINCLAIR: It is the Railway Association of Canada, Uniform Code of Operating Rules. Mr. Lewis asked me to file it and I think I gave copies to the Secretary some time ago. My memory may be completely faulty on this matter. We are getting rather a large number of exhibits to remember.

THE CHAIRMAN: Well, I thought it was

filed. Is it Exhibit 68?

MR. SINCLAIR: That is it, sir.

THE CHAIRMAN: What page were you reading from?

MR. SINCLAIR: Well, it is shown at the top of one of the pages under the rule number and it is the same way throughout the book.

THE CHAIRMAN: What is the rule number?

MR. SINCLAIR: Rule 105, sir, and February 10, 1955, is the date of the rule.

THE CHAIRMAN: Yes, I see it. It is at the top of the page headed "Rule 105".

MR. SINCLAIR: Yes.

THE CHAIRMAN: All right.

MR. LEWIS: In that case I think I have a mild request. We do not have a copy of it. I have one that belongs to somebody else. Whether I missed receiving one I do not know but I could not find it.

MR. SINCLAIR: I will be glad to give you another one, Mr. Lewis.

MR. LEWIS: I thought all I had to do was ask.

BY MR. SINCLAIR:

Q Now, yesterday, Mr. Colpitts, you gave certain
of
evidence. One/the matters you dealt with was a trip that took place pretty recently which was fresh in your mind. I cannot find the page in the evidence but I think it was early in April you had a move on a freight train

from Souris to Winnipeg with two road switchers?

A Yes, sir.

Q And those road switchers had developed some trouble between Estevan and Souris. The train was moving east from Estevan to Winnipeg and you were taking over the train at Souris, Manitoba?

A Yes.

Q And the locomotive came in with one unit cut out, the trailing unit cut out?

A Yes.

Q The second one?

A Yes, sir.

Q And when you were there the train arrived at Souris for you to take over and it was met by master mechanic McDonald and road foreman Grant?

A Yes, sir.

Q And they worked on the second unit and were able to give you some power from it by cutting out one of the traction motors?

A Yes, sir.

Q And your train at Souris was filled out to some 66 cars, my recollection is?

A I said in that neighbourhood, yes.

Q Then you said that you had received certain instructions from the officials of the company?

A Yes, sir.

Q One of them was to go down through the yard and not have more than 400 amps on your load meter?

A Yes, sir.

Q And the instructions which you said were given in your presence to the fireman are found at page 6079 of volume 43. I have now got the page. You said:

"We were instructed at Souris, before we left, at least I was there and the fireman was told to make repeated patrols back to this second unit to see that everything was all right, and any time we stopped to be on the ground to make sure that all wheels of the second unit were turning."

Do you remember that?

A Yes, sir.

Q Now, did Mr. McDonald or Mr. Grant accompany you on part of this trip?

A Mr. Grant accompanied us to the first station, I believe the name is Newstead, approximately -- I think it is about six miles or seven miles.

Q He accompanied you down through the yard too, didn't he?

A Yes sir, he was on the second engine.

Q That was the one that had been giving trouble and on which he and Mr. McDonald had done the work?

A Yes, sir.

Q And the traction motor, what pair of wheels did they cut out, do you remember?

A The traction motor below the cab.

Q That is the leading pair of wheels?

A Yes.

Q Do you know Mr. Grant well?

A Mr. Grant and I wrote our mechanical examinations together.

Q That is quite a few years ago?

A Yes, sir.

Q I asked you if you knew him well. There are not two Grants or anything like that that you know working as road foremen?

A No.

Q And you have got this matter very clearly in your mind, have you, witness?

A That is right.

Q And these instructions that you were told about were given at Souris?

A At Souris.

Q It goes on at page 6079:

"Q. Who gave Mr. Sankow" --

Is that your fireman?

A Yes sir.

Q "Who gave Mr. Sankow these instructions to go back frequently, I think you said, go back to the second unit and make sure that all was all right?

A. The road foreman.

Q. Mr. Grant?

A. Mr. Grant."

Witness, if Mr. Grant says that he did not give any such instructions as you relate would you say that he was mistaken?

A I would, sir.

Q If Mr. McDonald said that no such instructions were given would you say that he also was mistaken?

A I couldn't say what Mr. McDonald would say because he was on the second unit. They took the fireman back to the second unit.

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Q And if Mr.Sankow said he never received any instructions to patrol, you say that Mr. Sankow would be mistaken also?

A He would be mistaken because he received the instructions.

Q Well, I have been in touch with these gentlemen by telephone, witness, and they have all told me that they never -- Mr. Grant said he did not give those instructions that you referred to. Mr.McDonald said those instructions were not given and the fireman says that he did not receive instructions to patrol.

A That I cannot understand, sir.

Q You think I may have misunderstood them on the telephone, is that your only explanation?

A I have no comment of that nature.

Q Now, as an engineman, what would the fireman do even if he had gone back to the second unit? What could he do?

A Technically, I cannot offer any arguments for or against, sir.

Q You do not know what he would do?

A No sir. He had it explained to him.

Q He had explained to him what they had done and that was explained to you also because you gave evidence on that?

A All I know, sir, is they cut out the traction motor that I had no wheel slip indication on the

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leading unit, as to the second unit.

Q Right; and when you ^{stopped} / there were you not told about looking at the gear cover to see if there was any rubbing?

A The fireman was instructed as to what to look for.

Q Oh now, witness, you were right there and they told you to look at the gear cover to see if there was any rubbing?

A The fireman --

MR. LEWIS: Is my friend telling the witness what happened?

THE CHAIRMAN: I am just wondering if that is a question?

MR. SINCLAIR: Yes, that is a question, sir.

BY MR. SINCLAIR:

Q Were you not?

A The fireman and I were both there. The fireman was taken back and shown what to do. I did not leave the cab of the first engine.

Q Do you not recollect about saying that when the engine was stopped that you take a look at the gear cover to see if there is any rubbing?

A No, I do not remember that.

Q That could have been told to you?

A I do not remember that it was.

Q Now, witness, you would recollect a conversation

you had with Mr. Woodland when the calling time of firemen on trains 1 and 2 was reduced by 30 minutes?

A That is correct.

Q And you said to Mr. Woodland that the fireman would be held responsible if anything went wrong and they did not have time to check. Do you remember that?

A Yes sir.

Q And Mr. Woodland told you that the fireman did not have to check, then they would not be responsible because it was the responsibility of the shop staffs? Do you remember that?

A He gave me that, yes.

Q That was about a year and a half ago?

A Yes sir.

Q Now, witness, you gave some evidence yesterday also about the fireman taking their progressive mechanical examinations to qualify as enginemen?

A Yes sir.

Q And you said that you suggested -- if I am wrong about this you may correct me because I am relying on my recollection -- that you suggested that some of the technical men of the company, the diesel men, would come over and give a lecture to the firemen in your lodge?

A Yes sir.

Q And I think that was arranged, according to my instructions in July. The lecture was in

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July?

A No sir.

Q June?

A It was in February.

Q That is when you asked for it, was it?

A That is when the lecture was arranged for.

Q In February of 1956?

A Yes sir.

Q And the man who gave that lecture was who?

A Mr. Dingwall.

Q Is that Mr. Gordon Dingwall?

A I do not know his first name, sir.

Q Did I understand your evidence to be that during that lecture Mr. Dingwall said that firemen were to patrol diesel units?

A He gave an outline as to what firemen could look for.

Q I asked you a different question, witness. I asked you whether Mr. Dingwall at that lecture said that firemen were to patrol diesel units?

A He indicated that firemen would patrol and what to look for.

Q He did not instruct the firemen to patrol?

A I could not use any phraseology from that late date now as to specific instructions but it was definitely stated.

Q You were there?

A Yes sir.

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Q And your recollection is clear on this matter?

A Yes sir.

Q And your evidence to this commission is that Mr. Dingwall indicated to the people at that meeting -- let me put it this way -- indicated to you from this that firemen were to patrol, is that your evidence?

A That is the indication I received, yes.

Q There was no suggestion, was there, and you are not trying to tell this Commission that Mr. Dingwall said that firemen will patrol every half hour and take readings or anything of that nature?

A No.

Q Did the lecture not have to do with trouble shooting, Mr.Colpitts?

A It had to do with various things. There were a number of questions asked there and a number of questions answered.

Q Yes; the firemen who were there would direct questions to Mr. Dingwall -- "When this happens, what do you do? What do you look for". Is that what you mean?

A It was of that nature yes.

Q And these men were all writing their examinations on their way to qualify as enginemen just as you had years ago?

A In preparation for their mechanical examinations, yes.

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- Q Now later, witness, -- I do not have the page here -- but with regard to patrolling the purport of your evidence was that Mr. Woodland had told you that firemen were to patrol. Is my recollection of your evidence right?
- A That was our understanding, yes.
- Q He was talking to you personally?
- A That was my understanding.
- Q Mr. Woodland did not give a lecture?
- A No sir.
- Q This was a personal conversation you had with Mr. Woodland ?
- A Yes, regarding the qualifying of men for engineers and mechanical examinations.
- Q Well, Mr.Woodland told you that men to be qualified as enginemen had to know how to do certain things to get the train over the road, is that right?
- A It was understood certain matters regarding oil levels, water levels and other things around the diesel that can be watched by firemen.
- Q That is what you say he was talking to you about?
- A And the mechanical examinations; firemen preparing themselves for it.
- Q Witness, is it not true that your recollection might be a little hazy on this matter? I am going to suggest to you that what Mr.Woodland

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told you is that enginemen on diesels had to know how to do certain things if trouble developed. For instance, ground relays were only to be reset a certain number of times and low lubes a certain number of times and that is what he talked about, correct?

A It was general.

Q Now, you talked about a trip you had to Minnedosa. Do you remember that trip?

A Trip -- in my evidence?

Q Yes?

A Yes.

Q In November or December, 1956?

A It was about that time, yes.

MR. SINCLAIR: That is the last point I was discussing with the witness on page 6084 of Volume 43 of the transcript.

THE CHAIRMAN: That was the point that was to be the last one last night!

BY MR. SINCLAIR:

Q This trip -- and this is the last trip; that was at the end of Mr. Lewis' examination -- that was when you had some trouble with your engine making transition at 25 miles an hour?

A Yes.

Q And you said it would not make transition because the contactors would not stay up?

A That appeared to be the trouble.

Q Now, those contactors, where are they?

A In the electrical cabinet in the cab.

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Q The high voltage cabinet or the low voltage cabinet?

A I could not say, sir, as to which was high or low. It was on the righthand side of the cab.

Q Close to the cab?

A In the cab.

Q In the cab?

A Yes; we had road switchers.

Q And you say you took a look at that cabinet that you saw from the cab and you say that one of the contactors had fallen down?

A The contactor would raise and fall.

Q So you kicked it up with your foot?

A It would not stay so I held it up with my foot.

Q You say that then fixed the trouble?

A It stayed up.

Q And then you had no trouble making transition?

A No sir; she made transition then the engine appeared --

Q You then later said you went and asked Mr. Woodland about this and he told you that that fixed it?

A I told him but he asked me if anything happened and I said no. He asked if it fixed it and I said yes. I asked if I was wrong. I was doubtful as to whether I should have done that or not and that is the reason I went to Mr. Woodland.

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Q Oh, witness, let me see if I can help your memory a little bit more. Mr. Woodland, did he not telephone you to find out what had caused the delay of these units leaving Minnedosa?

A No sir.

Q Did you not tell him there was ground relay trouble?

A No sir. I told him -- yes, the ground relay; yes.

Q And when you got off your engines at Minnedosa . did you not also tell the crew that was taking over from you about this trouble?

A Yes sir.

Q Did you tell them about the transition trouble?

A I cannot say that I mentioned that in particular.

Q Well, think about it now.

A It would be hard for me to say. We only have a moment there to change off.

Q Actually, they took the units out of Minnedosa and stalled going up the hill?

A Three times, I believe. It was Mr. Grant I spoke to on the telephone.

Q Not Mr. Woodland?

A No, sir, regarding the ground relays.

MR. SINCLAIR: I am instructed, witness, that you are in the wrong cabinet with regard to what you have told the Commission.

THE CHAIRMAN: That is not a question, then.

MR. SINCLAIR: It is a matter of information to the Commission and to the witness. I am instructed that is so, and that is the reason I put the questions. My instructions were that transition is in the high voltage cabinet on this type of unit.

THE CHAIRMAN: Well, that can be dealt with.

MR. SINCLAIR: That is all I have.

BY MR. LEWIS:

Q Mr. Colpitts, you will remember about Mr.

Sinclair asking you whether you had your Rules certificate?

A Yes, sir.

Q You informed him you did not have it?

A Yes, sir.

Q You told him you recalled that it expired in December, 1956?

A Yes, sir.

Q Did you, at my request, telephone your wife in Winnipeg to find out the exact date of that certificate?

A Yes, I did, sir.

Q Will you tell the Commission on what date that certificate expired?

A It expired on January 23, 1957.

Q Perhaps I should have asked it more properly, Mr. Colpitts. Will you tell the Commission on what date the certificate was issued to you, because I think that was the date that would be on it?

MR. SINCLAIR: Three years previous.

THE WITNESS: January 21, 1954, it was issued to me.

BY MR. LEWIS:

Q Did you also find out on what date the certificate prior to that one had been issued to you?

A July 27, 1951.

Q You obtained, therefore, your 1954 certificate some six months before the three years.

had expired?

A Yes, sir.

Q Did you also find out, Mr. Colpitts, as to when the rules instruction car was made available to you, this is in Winnipeg, this year?

A I found out that the car was available from March 8 to, I believe it was the 29th.

Q Of March?

A Of March of this year.

Q Do you have any explanation for not having attended the rules car during that period?

A I have what I feel is a very good reason. My wife underwent an operation late in February and it was necessary for me to take my holidays in order to care for my son, and then when she returned, care for the duties around the home.

MR. LEWIS: Mr. Chairman, may I interrupt my questioning to say that my reason for raising this point is that I was almost on my feet yesterday to object at one point when my friend asked the question because he was -- and it is not his custom -- I think unfair in putting this matter before the Commission, and particularly in saying at page 6123 of Volume 43, something to this effect:

"This is a second matter, Mr. Colpitts, that I have heard of here this morning. You told the Commission

"in answer to my questions that despite the law requiring you to have an up to date certificate you are operating an engine."

May I preface the protest I want to make by saying that I am not condoning Mr. Colpitt's failure. He may have had a good reason for not seeing to it that the certificate was renewed. I think every railway employee owes it to himself and to his job to do that on time.

THE CHAIRMAN: It is a statutory requirement, is it not?

MR. LEWIS: This is the point I am coming to. My learned friend knew that. I was not quite sure. I looked it up and the statutory requirement is not directed to him but it is directed to my friend's company. The statutory requirement, which is really translated into a Board of Transport Commissioners' order, General Order No. 782, provides, in Section 5:

"Every railway company shall at intervals determined by the company but not exceeding three years, commencing with the effective date of this order, by its rule instructors conduct an oral examination of each of its employees who is working in any of the said occupations on the operating rules under which he works."

This has been preceded by a section setting out

the occupations in which there is engineer.

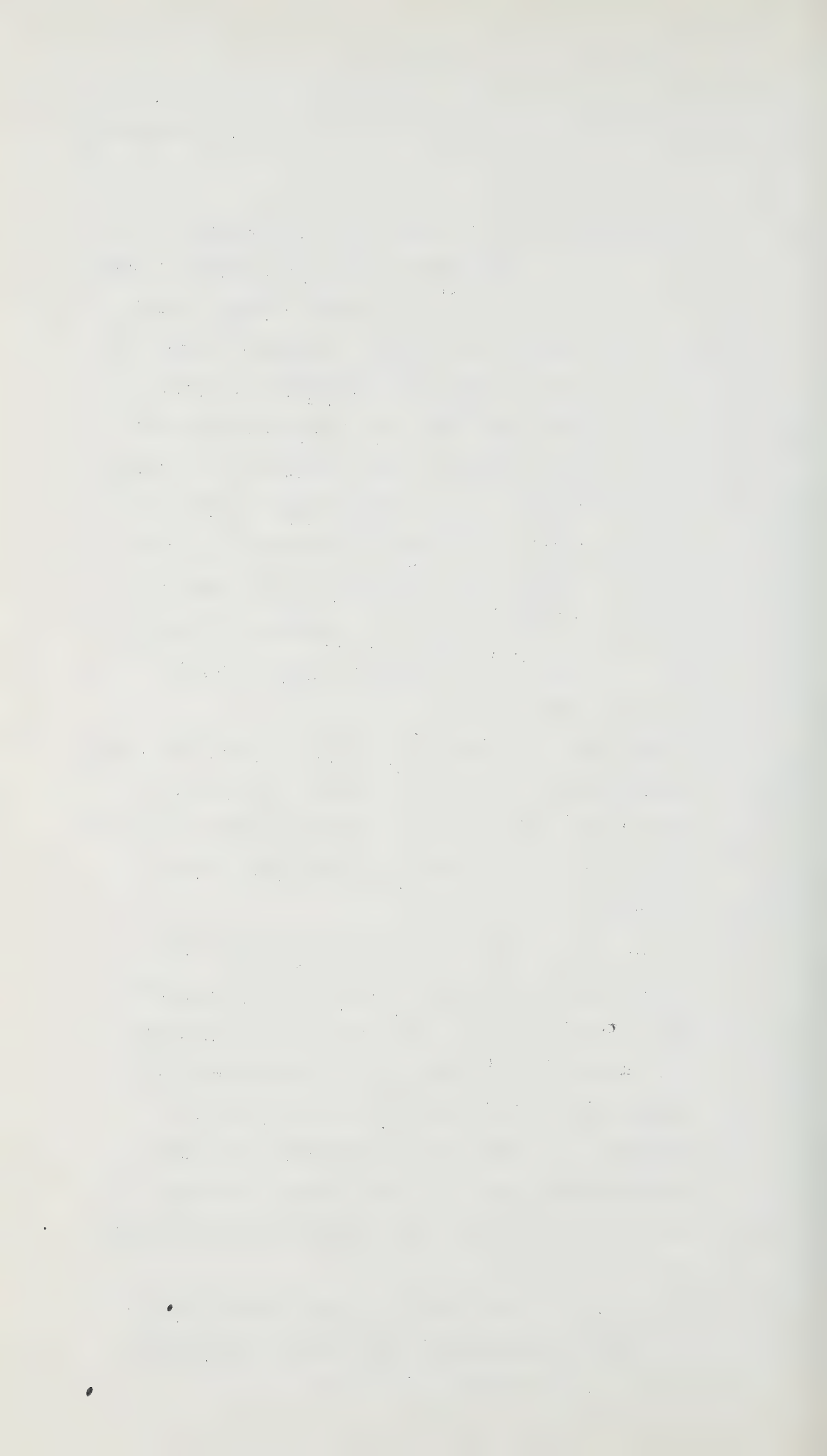
Then Subsection 2 of Section 5 reads:

"No railway company shall permit any railway employee to work in any of the said occupations who does not pass such oral examinations within the time intervals referred to in paragraph 5 (1). The railway company will notify employees by bulletin or otherwise of the dates upon which the Rules Instructor will be available at the various locations to conduct oral examinations."

I pointed out to you, sir, that the bulletins and opportunities given this witness — at least in 1957, and I have no doubt there was also an opportunity in 1956 of which he could have taken advantage.

MR. SINCLAIR: I think you had better ask the witness because I am instructed that when he got the information he has given the Commission he also got the information that there was a bulletin in the latter part of November or early part of December that the rules instruction car would be available the latter part of 1956, from November 27 to December 21.

MR. LEWIS: I will accept that. I am sure there was an opportunity. The point



I am driving at is this, Mr. Chairman. I am certain that my friend knew and knows that in a situation of this sort, both the railway and the employees, I have no doubt, on occasion have had extensions of two or three months. Someone overlooks something and the railway company, not wanting to be unkind or unfair to people who have had some experience, does not drop the axe because a man has not renewed this certificate on time.

I am not condoning Mr. Colpitts' failure to do so as an employee, but I do think that it was not fair to suggest that this witness had violated a law because, if there was any violation it was the railway company's violation. Nevertheless, on January 22 the witness did not have his certificate, and so far as the law is concerned, the Canadian Pacific should have said, "Mr. Colpitts, you cannot get on this engine from now on." That is what the law requires. I hope the railway company will not say that in every case because there are always, I think, circumstances to be considered. I should hate to see the employees of the company treated in that way, and I am sure the Canadian Pacific does not treat its employees in that way.

THE CHAIRMAN: It is perhaps not for me to say a word on the issue, but just as you read it I wondered if the company had any discretion. It says they shall not be permitted

to work.

MR. LEWIS: It might not. This is the first time I have said anything like this, and I want to say for the record that my work with my learned friend has been an extremely pleasant experience. However, I do resent, and formally protest, this attempt to pillory a witness on something my friend knows is not uncommon. It does not happen every day, but it does happen, and it was something which it was his company's duty to see did not happen. I do not think that kind of impression was an entirely fair thing to give.

THE CHAIRMAN: Perhaps we can leave it at that. You know, Mr. Lewis, emotions are stirred from time to time by various things. I do not know whether Mr. Sinclair wants to say anything about it. We are not deciding that.

MR. SINCLAIR: I do wish to say something, because if my friend thinks that I was unfair to the witness, I think his thoughts are unjustified. Mr. Colpitts did know that his Rules certificate was coming up. He did know there was a bulletin the latter part of November or December, and it was his duty to take action. The card that he has puts him on notice, and referring to the order that my friend has read, it provides:

"Note -- General Order No.

782 of the Board of Transport

"Commissioners for Canada requires that no railway company shall permit any employee to work under the Uniform Code of Operating Rules who does not pass the required oral examination at intervals determined by the company, but which must not exceed three years."

Mr. Colpitts knew his certificate was coming up and took no action whatever. If my friend thinks that that, in regard to the part he read, was unfair to the witness, I think he is wrong and I very strongly resent any such suggestion on his behalf.

THE CHAIRMAN: You have both had an opportunity to express yourselves, and I do not know that this particular issue is going to help us one way or the other on the issue that is really before us. We will have to leave you in that position, I guess.

MR. LEWIS: I appreciate that. If I may just add this word. This kind of inquiry involves a lot of employees of the Canadian Pacific, supervisory and otherwise, and I am not at all sure that to put people who comes before this Commission under that kind of strain under which this sort of accusation puts them, is the thing to do. That is all I want to suggest.

MR. SINCLAIR: You run your case and I will run mine.

MR. LEWIS: I am not trying to run for my friend, but I still have the right to express my opinion as long as the Commission will listen to it.

THE CHAIRMAN: We will decide on anything that is final or interlocutory in the course of these proceedings, but we will not admit that this particular matter falls in either classification. We appreciate the position in which both of you find yourselves. Perhaps we could proceed from here. I must say that, on the whole, it has been very pleasant for us from the standpoint of the way in which counsel have handled things. There are little irritations from time to time, but I am sure they will not get out of hand.

MR. LEWIS: I do not believe you would let them get out of hand.

THE CHAIRMAN: Our jurisdiction on a thing of this kind is perhaps limited. If we were elsewhere we would perhaps deal with things in a different way. We are just here to listen and to decide.

BY MR. LEWIS:

Q You remember yesterday Mr. Sinclair addressed some questions to you with regard to your actions in obtaining

some sort of job for a fireman G.S. Howe;
do you remember that?

A Yes.

Q I should like to read to you again the
letter from Mr. Kelley, who signs as
Terminal Superintendent, sent you on
March 7, 1956. It is addressed to you and
reads:

"Dear Sir:

"Re our conversa-
tions recently regarding Fireman
G.S. Howe: I have canvassed
every available source for employ-
ment for this man and am sorry
to say I am unable to place him
in any capacity around Winnipeg
terminal."

Had you had one or more than one conver-
sation with Mr. Kelley before this letter,
do you remember?

A On notification that Mr. Howe was being
taken from the firemen's list or from
the ranks of firemen, I only had the
one conversation with Mr. Kelley.

Q About this matter?

A Yes.

Q So that this letter, which gives you an
answer, related only to the one conversa-
tion?

A Yes.

Q And, so far as you recollect, when the letter says,

"I have canvassed every available source for employment for this man --"

And later,

-- I am unable to place him in any capacity around Winnipeg terminal."

When the letter says that, did it deal with the contents of the conversation you had with him?

A Yes, any employment at all that he could find for the man.

Q Now, Mr. Colpitts, you will recall that yesterday Mr. Sinclair in referring to some evidence you gave with regard to grain stabbers, I think you call them, or grain inspectors; you recall that Mr. Sinclair asked you some questions about grain inspectors or grain stabbers and referred you to certain acts. I want to read some evidence from Volume 42 as given by Mr. McKinstry of Calgary in connection with this matter and ask you whether this is the same kind of experience about which you were giving evidence. I am quoting from the top of page 5896, Volume 42:

"A. Yes, you have your grain inspectors.

Q. Are they railway employees or outside employees?

A. I think they are hired by the government to check the grain in the cars.

Q. How do they work, by the way?

A. Well, they open the door on the car and go in and take a sample of the grain out. Very often they are working on the opposite side of the cars to what the switching crews are working and different times I have had an engine follower swing us down

"or something when we come into a track and I would go up and ask what the trouble was about and he would say, 'Well, the fireman said the grainmen are working back there on those cars which are on his side.' The ladders were on his side and we didn't see them from the other side of the train."

Is that the kind of experience you had and about which you gave evidence?

A Very often that could happen too in Winnipeg; yes, sir, that is the type.

Q And was that the same sort of experience you were telling the Commission about that Mr. McKinstry was talking about?

A Yes.

THE CHAIRMAN: That meant that those grainmen were working on cars on the adjoining track, not on the track where the locomotive in question was working; is that it?

MR. LEWIS: No, as I make it out they were working on the same track, on cars attached to the same engine, only on the other side, and therefore the ground crew -- Mr. McKinstry, working as it was on the engineer's side of the train or cars, could not see.

THE CHAIRMAN: If my recollection is right, and if what Mr. Sinclair drew the

attention of the witness to is right, the yardman in charge of that locomotive could not make any movement without having a document stamped to the effect that these inspectors were through.

HON. MR. McLAURIN: That is the evidence.

MR. LEWIS: That did not arise in Mr. McKinstry's evidence.

THE CHAIRMAN: No, but the governing situation must be exactly the same.

MR. LEWIS: Yes. I have not had time to look up the acts and certainly my friend knows what he is talking about in that respect.

MR. SINCLAIR: I was instructed by grainmen. I have not checked the statutes.

MR. LEWIS: I do not know what the requirements are, but even if those were the requirements you could easily have the experience, and I have seen cases where inspectors in a plant would do the necessary stamping and then not bother taking ladders off or they might leave something else lying up there or they would still be on the ladder. That is the point of the evidence.

THE CHAIRMAN: It would be very foolish of them to stamp that they are off the ladder when they are still on it.

MR. LEWIS: They are not stamping

that they are off the ladder, with great respect, they are merely stamping that the grain is according to grade.

THE CHAIRMAN: They are stamping that their work is finished.

MR. LEWIS: They are stamping that the grain in that car meets the requirements.

THE CHAIRMAN: My recollection is that they stamp on the document that they are finished.

MR. LEWIS: I will go into that. I am merely suggesting to you, if I may with great respect, that "finished" is not relevant to whether they are still there or where the ladder is. "Finished" in that situation I submit would refer to their job as grain inspectors and I am sure that at some point they have to say whether the grain meets the requirements and may therefore be moved on.

THE CHAIRMAN: That point had better be cleared up because my impression when it was introduced is just as I say. Let us be accurate about these things.

BY MR. LEWIS:

Q I will take you now to Rule 104 which you discussed yesterday, to be found in Exhibit 27. Do you have that?

A I have not a copy.

Q I think it is at page 61, or at least

in the vicinity of page 61, as I recall it. I have not had time to look at the transcript, Mr. Colpitts, but my memory is that you seemed to agree with Mr. Sinclair's suggestion that the seventh paragraph of Rule 104, which is the last full paragraph on page 61; you thought that you as an engineer had yourself to know whether the switches were lined for your route?

A Yes.

Q Is that right?

A Yes.

Q Well, Mr. Colpitts, I am sure I could find it in your own exhibits, but it won't be necessary. Let me deliberately take a right-hand curve. You have pulled off the track onto the lead where in order to pull onto the lead you make a right-hand curve. You pull some cars onto that lead and in making your right-hand curve you as engineer would be getting the signals from the yardman?

A Yes.

Q We will not complicate it by having the signals passed through anyone else?

A Yes.

Q Suppose you had pulled up in order to back down another track somewhere, it does not matter exactly what the terrain

is, there would be a switch at that other track around the curve; is that right?

A At the engine or ahead?

Q Ahead, what you would call ahead and what I would call back, where the cars are?

A I see, yes.

Q You are pulling out of a situation where there are a number of parallel tracks?

A Yes.

Q You have pulled out of one of those tracks onto the lead on a right-hand curve and in order to back down again onto one of the other tracks --

A Yes.

Q -- there would have to be a switch at the point of the cars?

A That is right.

Q If you are around that curve would you be able to see that switch at any time yourself?

A If you could see it, if there was no obstruction there at all.

Q If that switch was around the curve at the point of the car and you are at the engine eight or ten cars away, do you have any suggestion to make as to whether you would be able to see the

switch yourself with your own eyes?

A Only if there was some obstruction or cars that were on that side.

Q If you could not see it and you got a proceed signal from one of the ground crew; if you could not yourself see the switch was lined and you got a back-up signal, I should say, from the yard crew to back up, would you or would you not as an engineer obey that signal?

A I would take the signal.

Q Would you or would you not feel that you had violated Rule 104 by accepting the signal of a yardman to back down even though you did not yourself see the switch was lined for you?

A No, I don't see how I could be violating the rule because I go by the signal I receive.

Q Receive from whom?

A From the switchman who is giving me the signal.

Q Can you think of any other case where you would yourself not see the signal indication? Can you think of another case?

A I have not gone into anything of that nature. It might take me some minutes.

Q The interpretation of these rules may be of some importance and if you can

help the Commission, all right. If you cannot, perhaps others may be able to. Perhaps this is wrong, as I am not a railroad man. Suppose you were on a Trainmaster road switcher, an 8900 road switcher, which has this long sort of nose ahead of it?

A Yes.

Q Quite long?

A Yes.

BY THE CHAIRMAN:

Q That is the one with the shorter nose behind?

A Yes.

BY MR. LEWIS:

Q This nose is what, 30 or 40 feet long, in front of it?

A Yes.

Q Something like that. You are going along a track and approaching a fixed signal of some sort, a block signal or whatever it is, but it is a fixed signal. You would have to go by the indication of that fixed signal, and the fixed signal might happen to be on the opposite side from you. That happens, does it not?

A Yes.

Q Assume for the moment that you are able to see it when you are say

100 feet away, two or three car lengths away; you satisfy yourself that the signal gives you the right to go on?

A Yes.

Q Then would you be able to see it when you approached to within 30 or 40 or 50 feet of it, with that long nose?

A You would not see it if it is on the opposite side for the full movement of your progress up to it; no, you wouldn't see it all the time.

Q Would you stop then because you could not see that signal?

A I would either stop or find out from the fireman or go by the signal indication of the switchman as to what the board indicated.

Q Would you feel you were obeying the rule if you said to the fireman or the head end brakeman -- I don't care who it is -- if you said to the fireman or the head end brakeman, "What does the signal say?" and they told you it was a clear signal or a green signal or a yellow signal, as the case might be; if you went ahead would you say you were violating Rule 104?

A I don't think so.

Q You have done that in your experience as an engineer?

A Yes, I have.

Q Are there many similar situations where as an engineer you use some person in the cab, whether it be the fireman or the head end trainman or a member of the yard crew, as your eyes, as it were?

A Yes, sir, on the other side.

MR. SINCLAIR: I do not know that I am following my friend. He seems to have got away from Rule 104 onto some other rule. Rule 104 has to do with switching. As I understand his questions they have to do with another rule, a road rule.

MR. LEWIS: I was talking about fixed signals so I would not be strictly within Rule 104.

MR. SINCLAIR: You were dealing with Rule 34, which is a road rule.

MR. LEWIS: I think there is another one in the hundreds as well, but I would have to look it up.

HON. MR. McLAURIN: You have just written your B book?

MR. LEWIS: Certainly no higher than that, sir. There was another one that I had in mind.

BY MR. LEWIS:

Q Then you dealt also with yard speed and Rule 105. Yard speed as Mr. Sinclair told you, and as you know

yourself, is defined as the speed which enables you to stop within one-half the range of your vision?

A Yes, sir.

Q You told the Commission about making a back-up movement. You said you would first take a glance back and then have your attention concentrated on the signals you would get from the ground crew ahead of you; is that roughly what you said?

A Yes, the majority of my attention is ahead.

Q To the yard --

A To the yard signals that I am receiving.

Q Rule 105 at page 64 reads:

"Unless otherwise provided,
trains or engines using other than
a main track must proceed at yard
speed."

Did you in that situation, Mr. Colpitts, feel that you were violating that rule if you backed up on the basis of the signals which you received from some member of the yard crew rather than looking back all the time yourself?

A I don't feel that I am violating that rule because of my reliance on the fireman on the left side watching for any confliction which might arise behind our movement when my attention is concentrated forward.

Q And you make the back-up movement after you have received -- I am still either on a straight track or a right-hand curve, Mr. Colpitts; I do not want to complicate it with the fireman receiving signals -- you start backing up when?

A When I get a back-up signal.

Q From whom?

A From the switchman.

Q And if you have backed up somewhat when do you stop?

A When he stops me.

Q Who is he?

A The switchman ahead of me.

Q And in your yard work you are then controlled in where you go or stop or start by the signals you receive from the yard crew? Is that right?

A Yes, sir.

Q I am asking you then whether you feel that you would violate or not violate this paragraph in rule 105 requiring you to go at yard speed, in other words, to go at a speed where you are able to stop within half the range of your vision? Do you think you are violating or not violating that rule if you depend on the signals which you receive from a member of the yard crew?

A No, I don't feel that I am.

Q Do you ever have fog in the Winnipeg yards?

A In the fall and spring, yes, we have fog.

Q Some mist occasionally?

A Yes.

Q You work in windy, snowy --

A Blizzards, yes sir.

Q Blizzards, and in those situations, Mr. Colpitts, are you always able to see or is there sometimes difficulty with visibility?

A There is sometimes difficulty with visibility, especially around the north and south humps.

Q And you work at night as well as in the day time?

A Oh yes, all shifts.

Q And in those situations do you or do you not rely on the observations which the yard crew and the fireman make to assist you to obey the rule as to yard speed?

A Yes, sir.

Q Now, with regard to Exhibit 223 -- I don't think you need turn it up, Mr. Colpitts; I think my question will be clear -- you told me about taking a light engine on a certain movement and Mr. Sinclair asked you whether you needed the three yard crew members who were going with it and the fireman, all four, to protect that light engine in the movement which you were then describing and you said no, you would not need the fireman for that. Would you need all three members of the yard crew for that, Mr. Colpitts?

A No, not for the movement of a light engine, no.

Q How many members of the yard crew would be sufficient to protect that movement of the light engine itself, do you think?

A The engineer, fireman and the switchman.

Q Suppose the fireman were not there; how many people in addition to the engineer would you need to take that light engine in that movement?

A I would say someone should be on the left side of the cab and the switchman at the point.

Q Right. I don't know what the situation is there but with regard to Exhibit 227, the switching in the various packing houses and Mr. Sinclair's suggestion to you to have the engine turned around so it would head north instead of heading south, would you tell the Commission whether that engine does work only at these packing houses or does it do work anywhere else along that lead?

A Oh no, that engine works right from St. Boniface station which is right down at the C.N. high line that we spoke of. It is in that vicinity on Exhibit 226 that the engine will work anywhere from that territory down to Paddington.

Q And it does switching all along?

A Yes, anywhere in that yard.

Q You have told the Commission that it does switching at these packing house plants. Is that done after the other switching or before? Do you know?

A As I recall, sir, a switching movement may be required in the morning during your morning duties before your lunch hour. Then you will go back down in the afternoon and make another switch should it be required. It would be hard to establish it as a set rule as to which way they switch and how often.

Q If your engine were turned around heading north instead of heading south, which Mr. Sinclair suggested to you would solve the problem of passing signals at Swifts and Canada Packers --

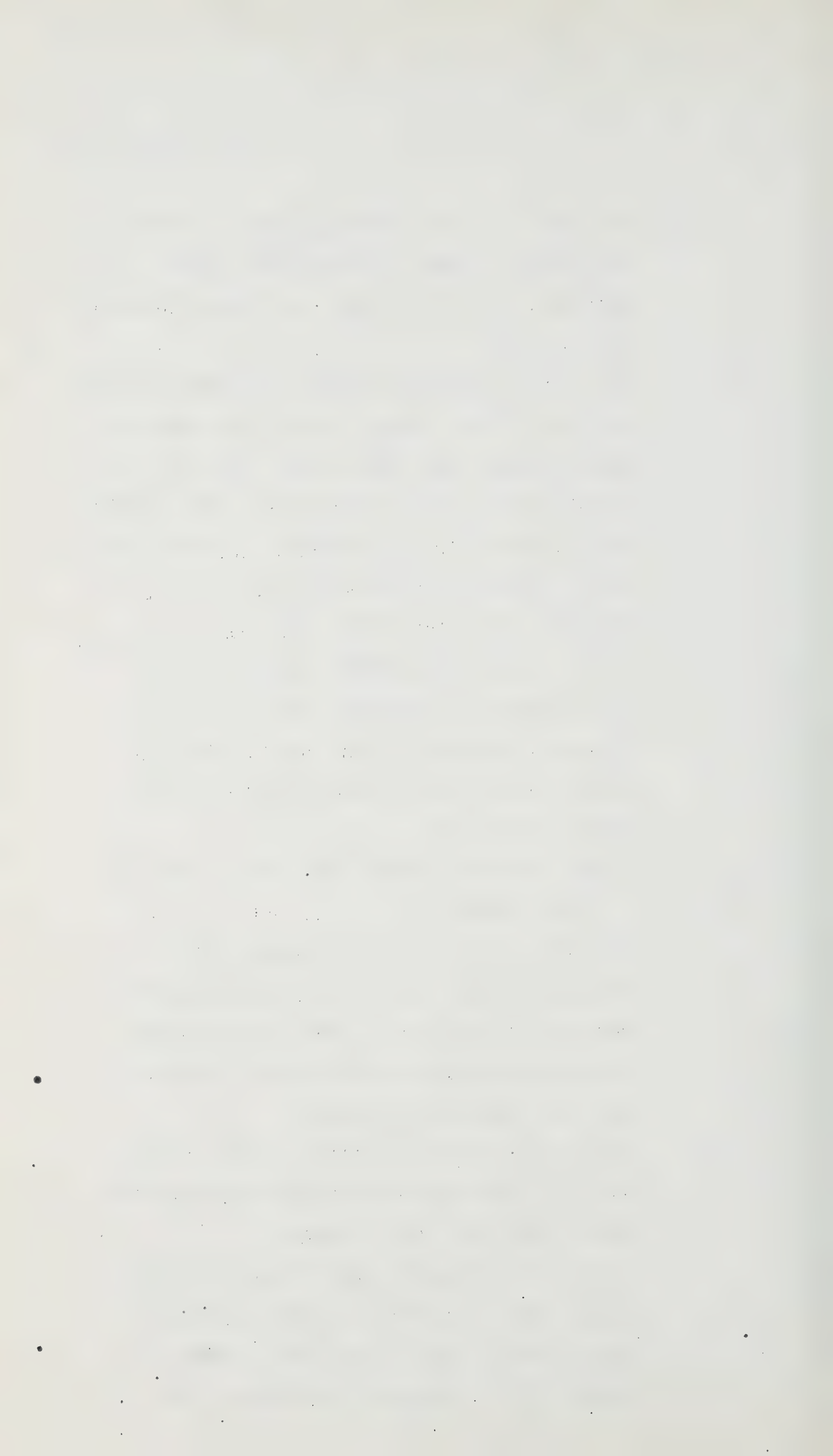
MR. SINCLAIR: With long cuts of cars.

BY MR. LEWIS:

Q With the 35 cars you were dealing with, if the engine were turned around heading north instead of south, would that or would that not create switching difficulties in some of the other industrial sidings?

A It would be possible that the C.N.R. would be in the Paddington yard and using the lead coming back onto your movement.

Q I don't think I made myself clear. The difficulty arose here, Mr. Colpitts, having the engine going south -- by "here" I mean Exhibit 227 -- because if the engine is



headed south and when you back down the curve the inside of the curve is on the fireman's side?

A Yes.

Q I am assuming -- correct me if this is a wrong assumption because you did not draw it to the Commission's attention -- that there is no difficulty in passing signals at the other switching points that this engine works at and that if there are curves there they are curves which enable the engineer to see, what we have called right-hand curves?

A Yes.

Q I am asking you whether if this engine is turned around and headed north so that the curves on Exhibit 227 become right-hand curves instead of left-hand curves whether heading the engine north would create difficulties at some other switching points which this engine works?

A Yes, you would have to turn your engine to attend to switching services other than at these particular instances.

Q And I think you told the Commission that you thought it was, from memory, 35 or 40 car-lengths from Swifts on Exhibit 227 to the "Y" at Paddington yard?

A I would say about that distance, yes.

Q And you agreed with Mr. Sinclair that it would not take very long to run the engine

over and around that "Y"?

A Yes.

Q At that point to get it turned?

A Yes.

Q Have you had any experience with difficulty with the switches around the "Y" in the winter-time?

A I have never turned on that "Y".

Q You have never turned on that "Y" so you don't know?

A No sir, I don't know.

Q Now, I am a little lost, Mr. Colpitts, and I think it may assist the Commission if I understand it a little better, about this matter of this Souris trip and the cutting out of the motors in the trailing unit?

A Yes.

Q Do you remember that?

A Yes.

Q You said something about having no wheel slip indication in the cab of the lead unit. Would you not have any indication of wheel slip in either of the units at that point?

A The second unit would have some effect on the indication I would receive on the first unit. As I understood it, the wheel slip would be on and giving a faulty indication as to the first unit.

Q But it was the second unit -- I do not quite follow you --

A The second unit.

Q The second unit was the one with which you had some trouble?

A Yes.

Q It was there that they cut out the traction motors, one of the traction motors?

A Yes.

Q And you said something about not getting wheel slip indication in the cab of the first unit. Is that what you said?

A Yes, I wouldn't get any indication as to the action on the second unit, what was taking place on the second unit in regard to wheel slip because it was cut out and they cut it out, as I understand it, so that it wouldn't conflict with my wheel slip indication on the leading engine.

Q So that you could get a proper one on the leading unit?

A Yes.

Q And therefore you would not get any indication if there was a wheel slip on the second unit?

A Yes.

Q You would not get any indication in the first unit?

A That is as I understand it.

BY THE CHAIRMAN:

Q Well, do you understand it? Would that be the result?

A As I have been told, by having the traction motor cut out, if I gained higher voltage and possibly reversed with the one cut out I would possibly develop too great an amperage on the second unit which would reverse the traction motor on the second unit --

Q No, all I am asking you is whether you are sure that with the one traction motor cut out on the second unit and you proceed, that if there were wheel slip on the second unit with the traction motor cut out you would not have any indication of that in the leading unit that you are driving?

A Yes.

Q You are sure of that?

A Yes, I was told it was cut out.

Q I did not ask you that, Mr. Colpitts. You have just said, as I understood you, in answer to Mr. Lewis that with this traction motor cut out on the second unit --

A Yes.

Q That if there were wheel slip on the second unit that would not register in the leading unit where you were operating?

A That is correct.

Q I am asking you if you are sure of that. That is all.

MR. LEWIS: I did not quite understand the witness to quite put it that way. He said they had done something to cut out the wheel

slip indication from the second to the first because otherwise he would get a faulty indication on the first. Do you know exactly what was done?

THE CHAIRMAN: Well, I am lost. I thought you had specifically brought him down to the point with the one traction motor cut out on the second unit and he is in the first unit and proceeding and that if there were wheel slip on the unit in which he was he would get that indication but if wheel slip occurred in the second unit where he was not he would not get that indication, and from his answer I was not sure whether he knew that as a matter of fact, whether or not he was sure, and I just wanted to know. You said you were sure? Is that the answer you gave?

THE WITNESS: That is the answer I gave, sir.

THE CHAIRMAN: Are you sure that that is the effect mechanically or electrically?

THE WITNESS: The road foreman explained it to me in that manner, sir.

THE CHAIRMAN: All right.

BY MR. LEWIS:

Q I just have two more little questions and I will be through. With regard to this meeting of your lodge in February, 1956, where Mr. Dingwall was present --

A Yes, sir.

Q And answered questions?

A Yes, sir.

Q First, do you recall which examinations were to be written? Were they the first, second or third of the series?

A As I recall it, the series affected men who had written either their first, second or third; they would be required to write all three of them as to what series they stood for, what they were required to write in the progress of their examinations.

THE CHAIRMAN: The class was a mixed class.

MR. LEWIS: It was a mixed class.

BY MR. LEWIS:

Q Some of them would write the first, some the second and some the third depending on where they were in their --

A As I understood it, yes.

1911

1912

1913

1914

1915

1916

1917

D.R.Colpitts

Q Do you recall whether Mr. Dingwall at any time said to the class that they should not patrol engines?

A I do not recall anything of that nature, no.

Q When you discussed with Mr. Woodland, as you informed Mr. Sinclair about these mechanical examinations and what people had to know and so on, did Mr. Woodland indicate to you that he did not want firemen to patrol the diesel engines?

A Mr. Woodland did not indicate that to me; he did not indicate that he did not want them to patrol the engines.

MR. LEWIS: Thank you. Perhaps before I call my next witness, Mr. Chairman, we might have a break.

THE CHAIRMAN: Yes, we will adjourn for a short recess.

-- The Commission took recess.

The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

The second part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

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The eighth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

D.R.Colpitts

-- After Recess

MR. LEWIS: Mr.Chairman, my friend informs me that he did not want Mr. Colpitts any more so I told him he was through.

The next witness is Mr. Vincent Edward Flanagan.

VINCENT EDWARD FLANAGAN, Sworn

BY MR. LEWIS:

Q Mr. Flanagan, you told me that you are now a freight conductor on the New York Central Railway in the United States running between Cleveland, Ohio and Buffalo, New York on what is known as the Lake Division, is that right?

A That is right.

Q You also told me that you joined the New York Central in November 1917 as a messenger boy and shortly thereafter you were told to go back to school until you were 16 years of age?

A That is right.

Q Which you did?

A That is right, yes sir.

Q And you returned as a messenger boy with the New York Central in April of 1919?

A Yes, that is right.

V.E.Flanagan

Q And you resigned from the New York Central in September of 1922 and joined the Pennsylvania Railway as switch tender working in Columbus, Ohio?

A That is right.

Q And you worked there for a few months and went back to the New York Central in January of 1923 as a freight brakeman?

A That is right.

Q Working at that time out of Cleveland, Ohio?

A Yes sir.

Q Then you informed me that in October, 1941 you were passed as a conductor and that you have been running either as a brakeman or as a conductor ever since with the New York Central?

A That is right.

Q You also told me that you were off work with an injury as a result of an accident for over three years from October 1952 to early January of 1956?

A Yes sir.

Q And that while you were off and still retained your seniority you were in 1955, promoted to passenger service but you have elected to stay on freight because you have a regular assignment in freight which you would not have in passenger?

A That is right.

Q And you returned to work, as I have said,

V.E.Flanagan

in January of 1956 as a conductor and have been a conductor on there since that time?

A Yes sir.

Q Now, you also informed me that you are a member of the Brotherhood of Railway Trainmen in Erie, Pennsylvania where you live?

A Yes.

Q And that you are also local chairman of Local 199 of the Brotherhood of Railroad Trainmen?

A Yes sir.

Q And that you have been on and off the lodge committee of that lodge for the last 12 to 14 years?

A That is right.

Q Now, what ^{has been} / your record with the New York Central so far as you recall?

A Well, for the last 25 years I do not believe there is anything against my record with the exception of a 10-day suspended sentence for violating a safety rule -- oh, about 1937. Prior to that time I was discharged once and had little fracas in my younger days.

Q Now I would like, first, Mr. Flanagan, with your assistance; to draw attention to some of the Operating Rules of the New York Central system. I show you a book headed "New York Central System Rules of the Operating Department", effective October 28, 1956?

A That is the rules we work under.

Q The rules you now work under?

A Yes.

Q Just retain that for a moment. I have not any copies --

THE CHAIRMAN: Are you putting it in?

MR. LEWIS: I could put in that volume, but I have not any other copies. However, I do not think it necessary. I want to put on the record a number of the rules in it, and perhaps that will be sufficient. If you will just keep that, I will read the rules in, Mr. Flanagan, and if you would just check with me to see that what I have is accurate. I want to turn first to page 52 of the rule book which you have.

MR. SINCLAIR: What is the date?

MR. LEWIS: October 28, 1956.

BY MR. LEWIS:

Q Turn first to page 52, the last paragraph of Rule 210, Mr. Flanagan. It reads:

"Enginemen must show train orders to firemen and, when practicable, to forward trainmen. Conductors must show train orders, when practicable, to trainmen. When firemen and trainmen are shown train orders they must read them, and if necessary remind enginemen and conductors of their contents."

Now, Mr. Flanagan, in this rule, and in your experience on the New York Central, do you consider or do you not that there is a difference between the obligations with regard to showing train orders to the fireman and the obligation with regard to showing them to the brakeman?

A Well, there is a difference. The word "must" makes the engineer show them to the fireman, and when practicable to the brakeman.

Q Then, will you turn to the top of page 4 -- I must have the wrong page in my note. It is Rule 211A?

A It is page 54.

Q The part of Rule 211A dealing with train orders and clearance forms. It reads:

"Clearance Form A must be delivered together with all train orders to each person addressed."

If I may interrupt there a moment, and ask you to whom are train orders and clearance Form A usually addressed?

A To the conductor and engineman.

Q Then, it reads:

"Conductors, enginemen and firemen must, and when practicable trainmen will, see that the information shown on clearance form A corresponds with the train orders received."

Is that right?

A Yes, sir.

Q Then, if you will be good enough to turn, according to my notes, to page 135, and that is in the middle of the same section dealing with general rules. General Rule 701, and will you check whether it does or does not read as follows:

"The enginemen and firemen of all trains and, when practicable, the forward trainmen of freight trains, must be on the lookout for signals from the rear after meeting or passing trains, also when approaching and passing stations, drawbridges and trackmen, and frequently at other points."

A That is right.

Q There is the same difference as to the

obligations of firemen and the obligations of forward brakemen on freight trains as previously noted?

A That is right.

Q In the one case the firemen must, and in the other case trainmen will when practicable?

A That is right.

Q Then, turn to page 137, part of General Order 701, and there is a cryptic rule there that I shall have to ask you to explain. It reads:

"Headlight not burning.

By day: Point to your eyes in full view of engineman or fireman."

What does that mean?

A Well, the rule says that a headlight will burn day and night. For instance, if a train is approaching from the opposite direction and the headlight is out, it is the duty of the train coming to it that notices it to point it out to them for the purpose of having them light their headlight.

Q You said point to them, the firemen or engineman? And you point to your eyes?

A You point to your eye to attract their attention that their headlight is out.

Q Then, page 162, General Rule 933. This is, is it not, part of a section dealing with the duties of enginemen?

A It is a separate rule dealing with the

duties of enginemen.

Q It is one of the sections of the rules dealing with the duties of enginemen?

A That is right.

Q And it reads:

"They must not leave engine
while on duty --"

That "they" refers to whom?

A To enginemen, the engine crew.

Q "They must not leave engine
while on duty without permission or
authority except in case of necessity
and then the fireman or some competent
person must be left in charge
unless otherwise instructed."

A That is right.

Q Am I right, if my friend does not object, Mr. Chairman, that those are rules directed to the engineman, and the engineman is told that he must not leave the engine unless there is a fireman or some other competent person in charge?

A That is right.

Q Then, is there or is there not, beginning at page 163 of that rule book, Mr. Flanagan, a set of rules regarding the duties of the firemen?

A Yes, sir.

Q And some of them read as follows:

"Rule 941. They --"

In this case that means the firemen?

A That is right.

Q I continue:

"They must observe and give immediate notice to enginemen of any signals or other conditions affecting the safety of the train."

Is that right?

A That is right.

Q Then, Rule 942, at page 163, reads as follows:

"They must take charge of the engine in the absence of the engineman and not permit any unauthorized person to be upon it."

A That is right.

Q Then, Rule 943, at the same page, 163, reads as follows:

"If engineman fails to regulate speed of train when approaching a signal indication or other condition requiring that speed be reduced, they must communicate with him at once, and, if necessary, stop the train."

A Yes, sir.

Q And "they must communicate" refers in that case to whom?

A To the engineer; the fireman must

communicate to the engineer and if he does not take the necessary action, he is supposed to take over and stop the train.

Q He being the fireman?

A The fireman.

Q Then, Rule 945, and my note says it is still on the same page, 163; is it?

A Yes.

Q It reads:

"They must --"

"They" still refers to firemen? These are rules for firemen?

A Yes.

Q It reads:

"They must, in case the engineman becomes disabled, stop the engine or train and report to the conductor."

Is that right?

A Yes, sir.

Q Now, I ask you to turn to page 160, please, Mr. Flanagan, Rule 920, which is over a heading?

A Yes, sir, "Freight Brakemen".

Q Is there more than this one rule under that heading, Mr. Flanagan? Is there more than Rule 920 under that heading?

A Pertaining to freight brakemen?

Q Yes?

A No, sir.

-2

Q Just this one rule?

A Yes, sir.

Q It reads:

"Freight brakemen report to
and receive instructions from the
superintendent or other designated
official and will obey orders of
conductor and yardmaster."

A That is right.

Q Do you know that rule book fairly well,
Mr. Flanagan?

A Well, I have made an effort to learn it,
and these rules are the company rules and
they interpret them and instruct us in them.

Q From your memory and knowledge of the rules,
can you tell the Commission whether the
New York Central rule book contains any
other rules specifically directed to the
freight brakemen or is this one item I
have just read the only one?

A No, I do not know of any other rules. The
freight brakeman comes under the jurisdic-
tion of the freight conductor and while in
the yard he will receive instructions from
the yardmaster.

Q Would you speak up a little or try to use
the mike?

A Maybe I am too far away.

Q Now then, with these rules, in your experi-
ence on the New York Central Railway, what

is your comment as to the duties which are laid on the firemen on the New York Central Railway by these rules, and from your experience, as compared with the duties laid on front end brakemen?

A Well, we feel that the fireman is familiar with these rules, and therefore works accordingly. The rules are all self-explanatory, and we rely on him to look out for signals, tell us indications and when the brakeman is busy with other duties it is the fireman's responsibility to look out on the side that he is riding on and communicate any signals given to the engineer.

Q Now, Mr. Flanagan, were you a conductor on Train LS-1 on January 23 of this year?

A Yes, sir.

Q Would you tell the Commission of an incident that occurred with regard to that trip?

A I believe it was January 8, to my memory.

Q January 8?

A I believe it was.

Q Yes?

A We were proceeding west from Buffalo to Cleveland to Collinwood, Ohio.

Q That is where?

A That is the freight terminal.

Q In Cleveland?

A Cleveland territory.

Q Do you remember the engine numbers?

A I cannot recall the engine numbers, but I have a record of them. There were three diesel units with 120 cars. We took the siding at Conneaut, Ohio, and proceeded to a signal station, I believe it is SJ-Amboy. At 2.10 p.m. we got the signal to pull out of Amboy. At approximately 2-1/2 miles west of Amboy, 15 minutes later from the departure time at SJ, the engineer made an application which was quite heavy. It was quite a hard stop.

Q An application of the brakes?

A Of the brakes.

Q What was the engineer's name, by the way?

A Frank Puercello. From the application it was an emergency stop and I was of the opinion something was wrong.

Q Where were you at that time?

A In the caboose with the flagman. At this point, at Poor Road crossing, approximately 25 car lengths west of the road crossing is an entrance to a large left-hand curve. When we stopped the flagman proceeded over to see what we were stopped for.

Q What did you do?

A I went out and flagged.

Q To the rear of the train?

A To the rear of the train, both tracks. This is a double track. We had hit an automobile driven by a woman by the name of Mildred Vitala, and she was accompanied by a woman named Arlene Smith. When we struck this car there was an understanding between the brakeman and the fireman --

Q That is the front end brakeman?

A That the fireman would go out and flag the eastbound track and the brakeman would go out and see what was wrong

with the people and if he could be of any assistance.

When he got back there he found the two women out on the highway and the car had spun around and was jammed underneath the train, under the truck frames of approximately the 20th or 25th car from the head end.

Q In which direction -- you said this was a double track -- as far as the other track was concerned?

A Trains operate on either track in either direction at any time. This is in centralized train control territory.

Q What I mean was this: you said the car was jammed under the trucks of one of the cars of your train?

A Yes, sir.

Q In which direction was the car pointing? Was it pointing toward the other part of the double track or in the opposite direction?

A It obstructed the eastbound track. So when the head brakeman, C.E. Lord, seen the condition of these women he run to a farm house -- it isn't a farm, but it is in the country -- and called Ashtabula on the telephone and told them of the circumstances. They in turn

called Conneaut, Ohio, and an ambulance was sent by the Brown Memorial Hospital to remove these women to the hospital. Before the rear brakeman got to the point of the accident the ambulance was there and was leaving with the two women who were injured.

We laid there approximately an hour and fifteen minutes waiting for a tow truck from a nearby garage to pull this automobile from underneath the cars before we could proceed on our trip.

Q Were you out flagging the rear of the train all through this time?

A Yes, sir, and the fireman in this instance he went out around the curve to flag trains and he told them of the circumstances and they approached the point of the accident with the train under control and were of assistance in getting the automobile from underneath our train.

Q The automobile, as I understood you to say before, was foul of the east-bound track?

A Yes, sir. If there was not a flag out he would have come down and went into the automobile the second time.

Q Do you recall being the conductor on

a train extra from Buffalo westward in recent months?

A Yes, sir.

Q Where was that going to from Buffalo?

A It was going from Buffalo to Cleveland.

Q Do you remember how long the train was?

A 147 cars.

Q Do you recall anything happening at Angola?

A When we approached the signal indication at Angola it was necessary to make a reduction in speed and the engineer applied the brakes and when he released them he pulled a drawbar out of the 89th car which caused an emergency stop. The forward brakeman went out to the west to flag any eastbound trains and the flagman went to the east to flag any westbound trains.

Q By the way, Mr. Flanagan, what sized train crew do you have in addition to the engineer and fireman?

A In the State of New York the law provides that it is necessary to have three brakemen on trains of 26 or more cars, so we had what we call a third brakeman who rides the caboose between Gardenville and Wesleyville.

BY HON. MR. McLAURIN:

Q Do you drop him when you get there?

A We drop him at the Pennsylvania line,
at Wesleyville.

Q Ohio does not require a third man?

A We need two brakemen. The state laws
are different.

BY MR. LEWIS:

Q You had pulled the drawbar of the 89th
car. What happened? You say the rear
end brakeman went out to flag west and
the front end brakeman flagged east?

A That is right.

Q What happened then?

A The track was obstructed due to this
emergency stop. The engineer recalled
the flagman in from the west and then
it was necessary to go back to the
caboose to get a cable. We put a
cable on this car and took it down and
set it out on the siding.

This siding is near the high-speed
tracks on which trains operate in either
direction at 80 miles an hour and there
is a curvature both on the siding and
off the main track which makes it
necessary for us to give signals on the
fireman's side.

In view of this, with 89 cars
under those conditions it is necessary
for somebody to be on the left side to
take these signals.

Q Do you recall being on Train SLD-6, if my note is correct, about a year ago?

A Yes, sir.

Q Do you remember the date?

A I believe it was May 2.

Q 1956?

A Yes, sir.

Q How many cars did that train have?

A If I remember right, approximately 106.

Q Did you have diesel engines?

A Yes, sir.

Q Was there one or more units?

A Two units and one of them became crippled.

Q Which one?

A The trailing one.

Q The trailing unit?

A I believe it was a 2440, if I remember rightly.

Q A 2440; would that be a car body type or what you call the hooded type?

A Yes, a car body type, an A unit.
Maybe it wasn't an A unit, but it was a car body type.

This engine became crippled and at Wesleyville we change engine crews because it is an intermediate point between Collinwood and Buffalo, but we do not change train crews.

Q Just the engine crews?

A That is right. The engineer that got off this engine at Wesleyville reported it as not operating the way it should. They had no relay engines there so we were instructed to proceed, the engine crew was instructed to proceed to Buffalo with this unit being crippled.

We proceeded very slowly and practically stalled going up Northeast Hill and again at Farnham and at the top of that hill is Angola, New York.

On arrival at Buffalo I talked to both the engineer and the head brakeman who told me that this one unit was useless to him with the exception of when the fireman would go back and put it on the line for the purpose of helping over the hills.

I am not familiar with the operation of diesel engines because they come in since I have been a conductor and my experience riding on the head end was all on steam engines. So that was what they told me, that the fireman occupied that second unit on different occasions between Wesleyville and Buffalo for the purpose of cutting it in and cutting it out whenever it got hot, and the same thing going up Farnham Hill.

Q Mr. Flanagan, the first two incidents which you have described to the Commission, the incident of the accident where you hit a car and the incident where a drawbar was pulled at the 89th car, in recent months; are those in your experience of something like 35 years unusual occurrences, or are they at all typical of your experience in railroad service?

A It is unusual to hit automobiles; we do not hit too many of them, but pulling drawbars and breaking in two with these large trains and the application of the air and releasing the air; it is not unusual to break in two.

That is more or less an everyday occurrence. There will be a streak of them, they will occur two or three times, and then there may be a time when it won't happen for a month. There are 18 crews in this pool and I am sure that every man that is in this pool out of Cleveland has had the same experience. I could go on relating the experiences I have had until next month, but I don't want to do that.

It is not unusual; it is a regular thing to break in two. But when you hit

an automobile, and I have done it at different times; when we have hit automobiles, particularly when I was the head end brakeman, I have seen the fireman go out to flag on different occasions while I walked back to see what the trouble was.

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Q Now, Mr. Flanagan, from your experience in railroad service I want to ask you whether you recall an experience which occurred to an engineer called Joe Ralph recently?

A Well, I don't know -- this is information that was volunteered to me in regard to that and more or less when these things occur word goes around the railroad and men volunteered this. Joe Ralph was running an engine at Ashtabula, Ohio, when he suddenly became ill and thought he had an attack of indigestion and asked fireman Blair --

Q What was the fireman's name?

A Brail, a fellow by the name of Brail, to take charge of the controls until he thought he might feel better but instead of feeling better he felt worse and doubled up and they called for assistance to see what the trouble was and they took the man to the hospital and on arrival at the hospital he was pronounced dead with a heart attack.

Q And the fireman was in the meantime running the engine, was he?

A He ran the engine to the point where the ambulance was called and waited there until another engineer was called to take the place of the disabled man.

Q Then, would you tell the Commission about an incident with regard to an engineer called George Frey?

A Well, he had delivered a cut of cars --

Q How long ago was this?

A Oh, some time in April.

Q And I don't think I asked you about the other one, this information you were giving about engineer Joe Ralph. When did that happen?

A That was some time in April.

Q Of this year?

A The early part of April, yes, sir.

Q Of this year?

A Yes, sir.

Q Go ahead about engineer George Frey?

A He delivered a cut of cars to an industrial plant which is located one mile east of Ashtabula depot and approximately one mile north. They go up the main track to a track known as the Ceico track, Cleveland Electric Illuminating Company, and they went into this Ceico track.

Q I am sorry, is this something you yourself saw or another case that you were told about?

A This was a case, this information was volunteered to me as to what happened.

Q What happened?

A They delivered a cut of cars down into the Ceico track or down to one of those industries that is located on the Ceico track and upon returning to Ashtabula at Middle Road approximately 1,000 feet from the entrance to the main track the fireman noticed the engineer

was doubled up and he went over and got no response from him and when he got no response he stopped the engine and called for assistance. An ambulance was called and at the time the man was taken to the hospital he was pronounced dead. Now, had this engine continued and no one would have noticed the condition of the engineer or in the absence of a fireman it would have proceeded out on to the main track or a siding which first class and extra trains are run over under restricted speed, which is in this centralized train control territory. There is no derail, and it would have been possible for him to head out into the side of a train, the face of a train or a train that may be standing had the fireman not noticed this condition.

Q Now, Mr. Flanagan, you mentioned another incident to me with regard to an engineer called R. R. Franklin?

A I have very vague information on that but I do know -- I knew the man personally and I knew he was overcome with a heart attack while in the performance of his duty on a road switcher at Perry, Ohio, early this year. He was removed to the hospital at Painesville and he died.

Q Did the engine stop when he had his heart seizure, do you know?

A The fireman took over.

Q Pardon?

A The report I had was that the fireman took over.

Q Now, recently you have been a conductor on through trains, through freight trains, mostly, have you?

A Yes, sir.

Q Were you at any time in your experience a conductor on what you call local freights?

A Oh, on numerous occasions for a period of time, maybe for a year, maybe then be off for a month and back for six months, but from 1944 until 1951 the majority of my time was put in on local freights.

Q And have you run on local freights between Erie, Pennsylvania, and Cleveland or Collinwood, Ohio?

A Yes, sir.

Q Where on that run would you do most of your switching?

A Oh, at that time it was known as North Girard, now known as Lake City, Pennsylvania, Conneaut, Ohio, Geneva, Madison, Painesville, Willoughby, different points along the route.

Q And in any of these switching jobs along the line did you or did you not have occasion to get your crew, hat is, the train crew, to pass signals through the fireman?

A Oh, definitely. In some locations it was

necessary. You had no alternative. For instance, at places where you would have to make a drop close to a station platform where there was no clearance and it was necessary to make your cut, pull your pin and pass your signals on the fireman's side, and it was common practice for the fireman to expect it and did expect it in accordance with the rules we work under.

Q Mr. Flanagan, would you be good enough to try to recall an instance or to relive an instance when you did that and place your own train crew, position them as to what you and the other two members of the crew were doing while all this switching was going on? Where were you?

A It would be necessary to use all three men, all three groundmen, in order to make a flying switch, better known as a drop among railroad men, and in particular instances where the platform where this switching would be made was close, there was close clearance, it would be necessary to give these signals and perform the work on the fireman's side. For instance, at Girard from the freight house track to the west spur which is a stub track. it leads onto a highway, and if you had to drop a car in there it would be necessary to place one brakeman on top of the car to be there to handle

the brake. It would be necessary to have the other brakeman on the point of where you were going to pull the pin and the conductor would throw the switch and relay the signals, and in view of that it couldn't be made that way unless you had the men on that side of the engine because nobody could be there to pull the pin.

Q Now, have you had occasion to switch at the Ohio Rubber Works at Willoughby?

A Yes, sir.

Q Will you tell the Commission whether that was or was not an example of signal passing to the fireman?

A Oh, definitely. It was a couple of tracks, the Ohio Rubber tracks. If we were going east and we switched the Ohio Rubber tracks, what we call the old, it was necessary to pass the signals to the fireman, and if we were going west and we switched the new it was necessary to pass the signals to the fireman due to the close clearance, obstructions and being on a curvature track, and there was an overhead bridge which could be raised and lowered where people work between one building and the other. It was the responsibility of the conductor before the track was coupled to go back, look the situation over, raise the bridge, which was all

done on the left side. The button for the purpose of raising the bridge was on the left side. The curvature went in this way and then a little straight and then in again, and quite a grade there, and on two or three occasions when they were coupling cars the coupling failed to make and the cars ran down and damaged the bridge and ran through the buildings, a very tedious place to work, and it was all, only could be done on the fireman's side.

Q Now, Mr. Flanagan, from your experience as a brakeman and conductor over many years what is your opinion about men giving signals from on top of cars?

A Oh, I don't approve of it. A man is more or less interested in his safety and it is hard for him to watch the signals and be braced to get his signal and turn around and relay it or whatever he wants to do. I say that the groundman's place is on the ground and only in case of emergency they will go high.

Q Do you have occasion to work in poor weather?

A Oh, definitely, stormy weather, icy weather, snow, sleet, night, fog, rain. I have put many a long day in with every one of them, and some sunshine.

MR. SINCLAIR: You had better move to Alberta.

THE CHAIRMAN: I did not hear that.

MR. LEWIS: Mr. Sinclair suggests that the witness had better move to Alberta if he wants good weather.

BY MR. LEWIS:

Q Do yardmen and brakemen not climb high to give signals?

A Yes, sir.

Q You have done it yourself?

A Oh, many times I have done it, lots of places where with the curvature it would be necessary to get up to pass signals. I have done it lots and lots of times, yes, sir.

Q And when you have done it have you felt or have you not felt it to be hazardous?

A It is hazardous, yes sir. Although it comes with the line of our duty, still at the same time it isn't as comfortable as being on the side of a car or being on the ground.

THE CHAIRMAN: I think we will adjourn now.

---The Commission adjourned at 12.30 p.m. until 2 p.m.

Thursday,
May 30, 1957

AFTERNOON SESSION

— The Commission resumed at 2.00 p.m.

MR. V.E. FLANAGAN, Recalled

BY MR. LEWIS:

Q Mr. Flanagan, from your long experience as a conductor, would you please describe to the Commission your idea of the duties of the train crew -- that is, yourself and your two brakemen -- on a freight train?

A Well, the conductors^{are}/responsible for the safety of the train and to see that the cars are picked up and set off at the proper place. He issues instructions and sees that the brakemen carry out their duties. As, for example, if an emergency arises that the flagman is out protecting the train and then he will walk over to see what the trouble is.

The headman's duties are to keep a lookout on the train, especially going around a curve.

Q Lookout on the train; what do you mean by that?

A Well, for example, we will say that the curvature is on the right side of a train, on the engineer's side. The brakeman will go over --

Q Go over where?

A To the right side of the train behind the engineer, and lower the window and watch the

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train around the curve. You may be passing a depot or a junction point where a signal will be given on the lefthand side of the train. Often times the brakeman will be watching out and then someone will give the fireman a hot box signal^{a braking signal}/or some other kind of signal and he will say, "Hey! Here is a fellow giving us a stop signal," -- or some other kind of signal -- and then you act accordingly.

Q And this flagging out, you mentioned, do you know from your experience of what you observed in your years of service on the New York Central as to whether brakemen are frequently engaged in flagging duties or are they not so engaged on frequent occasions?

A Oh, frequently they are engaged in flagging duties and in many instances the fireman flags. If you make an emergency stop the fireman will go and flag and the brakeman will go back to see if he can locate the trouble.

Q Now, you have been on freight work a good many years, Mr. Flanagan. Would you give the Commission the benefit of your opinion as a result of those years of work as to whether or not firemen are needed on diesels in freight service?

A Oh definitely, he is needed for the protection of myself, my fellow workers and the travelling public. We need everybody that is assigned

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to the train any time an emergency arises.

Q And have you been on trains drawn by diesels in your experience?

A Definitely. Since I returned to work in January of 1956 that is all I have worked on.

Q And before you went off work in 1953 had you worked on trains drawn by diesels?

A There were some steam engines; very few.

Q And in your experience as a conductor on freight trains drawn by diesel engines, can you tell the Commission whether or not you have had occasion to observe the usefulness of the fireman on those trips?

A Oh, many times. Many times when an emergency stop was made the fireman would go out and flag while the brakeman would go back to locate the trouble -- the same as the instance there where we hit the automobile. The fireman went outside while the brakeman went back and maybe the brakeman will only go back five or ten cars and he will locate a broken air hose or crossover pipe and by doing that he can go back over and get a hose off the engine and go back and put it on. When the air comes up they whistle off and go.

Q Mr.Flanagan if the New York Central decided tomorrow or next month -- if it were free to do so -- to take the firemen or helpers off

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the diesel engines in freight service, what would be your reaction as a conductor in that service?

A Well, I would not want to assume the responsibility of running a freight train feeling that I was working short-handed. I naturally then would go over on passenger either in the capacity of a conductor or a brakeman.

MR. LEWIS: Thank you, Mr.Flanagan.

I have no more questions.

BY MR. SINCLAIR:

Q How old are you, Mr.Flanagan?

A 54 years old.

Q And on your railway can you work until you are 75?

A No sir.

Q Enginemen cannot work until they are 75?

A No sir.

Q The New York Central is not one of those railroads?

A No sir.

Q Many of the railroads in the United States allow their enginemen to work until they are 75, is that not right?

A I am not familiar with that.

Q What age is the absolute retirement age for enginemen on the New York Central?

A 70, sir.

Q There are no extensions allowed beyond 70, is that it?

A No sir, not in the train capacity. I won't speak for clerical work.

Q But it is 70 for engineers on freight?

A Engineers, conductors and brakemen are removed at 70; compulsory.

Q On the New York Central has the head brakeman any duty to look ahead when the train is moving over the road?

A Yes sir.

Q In the steam hand-fired days on the lefthand side he would look out on that side most of the time, would he not, Mr. Flanagan?

A He looked out ahead and to the rear for signals from the rear end and he watched the signals ahead.

Q While the fireman was down looking after his fire?

A Well, that is right, the fireman would be up and down and usually put a fire in and get up in time to see the indication of the block in advance of him.

Q You never had any trouble on the New York Central on hand-fired locomotives due to the fireman not being able to see all the signals?

A Would you repeat that, sir.

Q You never had any trouble on the New York Central with the fireman in the hand-firing days being in a position where he could not

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observe all the signals?

A There may have been occasions.

Q On the New York Central do the locomotives have a pilot light so that if the head light goes out the pilot light goes out in the cab?

A Not that I know of, I am not familiar with that.

Q Many of the runs on the New York Central are conducted without emergencies, are they not, Mr. Flanagan?

A Oh, yes sir, many runs are.

Q Emergency conditions developing are the exception rather than the rule, are they not?

A Oh, no, they are no exception. We are prepared for emergencies at all times.

Q I asked you as to whether they happened?

A They do happen frequently.

Q But they are exceptions rather than the rule? You are not telling me that there is an emergency on every train that is going out of the New York Central?

A No sir, I cannot tell you that.

Q And you also know of cases where the fireman as well as being useful has been harmful to train operations in the New York Central?

A Not in my experience.

Q You do not know of any?

A No sir.

Q Would you think that that could happen?

A Well, I don't know how.

Q You do not know how a fireman could be other

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than of assistance?

A That is right.

Q And you would never countenance, I suppose, a fireman on the New York Central who did cause an accident?

A Well, there may have been accidents caused by firemen but not that I ever have had any experience with.

MR. SINCLAIR: Thank you.

BY MR. LEWIS:

Q I have just one question or two arising out of the last question, Mr.Flanagan. Have you had any experience with an engineer causing an accident?

A Oh, minor accidents. We have had accidents which perhaps are not reportable and I have never had any serious accidents in my experience.

Q I do not want to embarrass you, Mr.Flanagan, but have you yourself as conductor or brakeman ever made some mistake that caused some affair, either major or minor?

A Well, I would like to stand on my record on that, Mr.Lewis.

MR. LEWIS: Thank you, Mr. Flanagan.

LEO JOHN COLLINS, Sworn

EXAMINED BY MR. LEWIS:

Q Mr. Collins, you are now a yard conductor on the New York Central Railway at Airline Junction, Toledo, Ohio?

A Yes, sir.

Q I understand you joined the Michigan Central Railway as a switchman on October 22, 1922?

A That is right.

Q According to the information you gave me, some years after that the Michigan Central became part of the New York Central?

A That is right.

Q In 1923 you were promoted to yard conductor and you have been a yard conductor ever since?

A That is right.

THE CHAIRMAN: Is that synonymous to yard foreman?

MR. LEWIS: Yes, it is the same as our yard foreman here

BY MR. LEWIS:

Q I understand all your yard work has been in the Toledo yards, first of all on the Michigan Central and later, when it became the New York Central?

A That is right.

Q Then, from 1942 to 1945 you were in war

service and you served with the Railroad Battalion in Europe and in Africa?

A That is right.

Q Then, when you returned to the United States after being discharged you went back to the New York Central in July, 1945?

A That is right.

Q And you are a member and local chairman of the Brotherhood of Railroad Trainmen for Lodge 907 in Toledo, Ohio, and you have held that position for some six years?

A That is right.

Q Now, Mr. Collins, the Toledo terminal, Airline Junction in Toledo, Ohio, is that a big or small yard?

A Well, we are considered the third largest railroad centre in the United States, and it is one of the largest yards on the New York Central property.

Q I understand you told me it is divided into about eight separate yards?

A Correct.

Q Do you know how long there have been diesels used in the yards in Toledo -- I am assuming that they have been in use for some time?

A Started in Toledo around 1949-50, in there.

Q Would you tell the Commission, Mr. Collins, what a yard crew consists of on the New York Central?

A A yard foreman and two helpers.

Q Do you have any particular designation or description for the two helpers?

A One is known as the fieldman and the other one is the headman.

Q What is the usual practice in the Toledo yard service with regard to positioning the men for giving signals?

A The conductor positions his crew as follows: Going down into a track for a cut of cars, a draft of cars, to switch, he generally is accompanied by the fieldman and the headman generally stays out on the lead for the line-up. Then, when they pull out with the cars, a cut of cars, to switch, the fieldman -- in five of these particular yards they are gravity yards -- the fieldman generally, on a clear track, will mount the car and try his brakes; if it is a clear track, that is, and then see that he has brake and notifies the conductor that he has such and then he is cut out by the conductor who relays the signal to the headman or the headman may make the cut and the conductor stand aside and supervise the work.

The fieldman will ride the car down into the track, secure the car on this track in case it is a clear track. He will open the knuckle and watch, according to his list, and catch these cars if there are

other clear tracks. If not, why he just lets them drift on and keeps the knuckles open and is sure that the tracks are secure.

Q When you give the signals, what is your general practice as to whether you give the signals on the engineer's side or on the other side?

A The engineer's side in practically all of the cases. There are occasions where you may have to step over to the fireman's side, especially is this true in industrial switching. But on straight leads we always transfer the signals directly to the engineer.

Q In industrial switching, when are the occasions, in general terms, when you relay the signals to the fireman?

A Well, close clearances in certain industries, obstructions overhead where you cannot position your men on account of embankments, bridges and the like of that.

Q Do you, in your experience, do yardmen go up on top of cars to give signals?

A Very rarely and only when signals cannot plainly be seen. Then he will, but in bad weather, in my 35 years' experience, ice especially, I will not order a man on top of a car for the simple reason I would not go up myself and I would not want a man to do anything I would not do.

Q Why would you not go up yourself?

A Too dangerous.

THE CHAIRMAN: What happens then, Mr. Lewis? I assume you had in mind a certain job where a man had to go on top of a car in good weather, and the witness says he would not put him on top of a car in bad weather. What does he do?

BY MR. LEWIS:

Q What the Chairman is asking, you said you go up on top of a car if circumstances are such that you cannot be seen otherwise, your signal won't be seen otherwise, you would do that in good weather, but you would not send anyone on top of a car in icy weather?

A That is correct.

Q How would you then do your job?

A Position the men, even though it did take possibly an hour to do a ten-minute job. I would position the men in such a way that if we had to handle a ten-car cut, one car at a time, that is the way we would do it.

Q You would do it one car at a time so they would not have to climb up?

A That is right.

Q Would you mention, just for the record, without going into detail, if you know of any industrial sidings where, in your experience, signals are transferred through the fireman, if there are any such?

A Yes, we have one industrial job known as

M.C. Industrial No. 2, where we switch the Royster Guano, which is a fertilizer company. The practice is and has been, in all my experience, to work on the fireman's side due to the fact that it is far removed from anywhere where you can turn or wye an engine, so that is the reason that we do it in that particular instance. It could be done, if we were available to a wye or a turntable, on the engineer's side.

Q If you could get to a wye or turntable and turn the engine, you could do it on the engineer's side?

A That is correct. We have another point, the Willys-Overland, where they manufacture jeeps, whereby with all the traffic in this particular plant, the obstacles, roads and areaways, with the workers in the factory that are ducking in and out with mules -- by mules I mean carts that are run by motors.

Q Little motor carts?

A That is right.

Q You worked on diesel engines yourself since they were introduced in 1949-50?

A I have.

Q I should have said with diesel engines?

A With them, that is right.

Q And in your experience as a yard conductor over these many years, would you express to

the Commission your opinion as to whether helpers are or are not needed on diesel engines in yard service?

A For the safety of all fellow workers, such as men in other capacities travelling through yards and the travelling public, especially at street crossings, I would say that another pair of eyes with the eyes of the engineer to safeguard everyone concerned, is good.

Q Now you, as yard conductor, are responsible, are you not, Mr. Collins, for the movement of the engine and its work?

A Responsible for everyone in the crew.

Q Can you or can you not carry out your responsibilities in such a way as to provide the engineer with sight on the left side of the engine without the fireman being in the cab?

A Well, the engineer would have to have the head of an Argus, I do believe, to see in all directions.

Q Is there any way in which you can at all times position yourself and your two helpers in the yard in such a way as to provide the engineer with sight which you say he needs on the opposite side of the engine?

A No, because if the headman were on the lead step of the engine he would have a restricted view that would be almost immediately ahead

or a small percentage to the left ahead,
up to a given point, for the reason that the
rest of the train would obscure the movement.
He would not know what was going on to the
rear after he passed a given point.

Q I showed you, Mr. Collins, the other day,
you will remember, a photograph of a yard
diesel used by the Canadian Pacific Railway.
Do you recall my doing that?

A I do, sir.

Q Is the yard diesel used by the New York
Central, does it resemble the yard diesel
used here or otherwise?

A Very similar; in fact, not knowing the
mechanical end, other than by observation,
I would say it was the same.

MR. LEWIS: I apologize, Mr. Chairman,
I had a note of it, but I have lost the number of
the exhibit.

MR. SINCLAIR: What one did you wish?

MR. LEWIS: Any one.

MR. SINCLAIR: There are Exhibits
34, 35 and 36.

THE CHAIRMAN: Mr. Borntrager gave
similar evidence?

MR. LEWIS: That they were similar.

BY MR. LEWIS:

Q This is Exhibit 37 I am showing the witness,
Mr. Chairman.

A Yes, they are exactly -- other than I cannot

see the deck. We have some that are quite square and some with just a small step, two different types.

Q That is the deck behind the cab?

A Yes.

Q Connecting the steps on the left and the steps on the right?

A That is right.

Q Normally, Mr. Collins, where does your yard crew in Airline Junction, the New York Central Railway, on which side of the train do you normally do your work?

A On the engineer's side.

Q Do you or do you not have any instructions as to somebody being at or on the engine? Has the New York Central Railway issued you, as a yard conductor, with instructions, or has it not, to have one man on, at or near the engine?

A Never; there has never been any instructions issued by the carrier other than the responsibility that the yard foreman places his men. It is up to the discretion of the yard foreman.

Q Do you have any practice as to which of the two helpers you put on as headman? And which you put on as fieldman?

A Seniority prevails in these circumstances to this extent, that the older member of the crew may wish to follow the engine instead

of working the field because of the fact
that there are brakes to put on and he does
not wish to climb cars.

Q Mr. Collins, in yard service, in yard work, what are some of the duties -- without going into all of them -- some of the jobs that your ground crew has to perform? When you are in a switching movement what do you have to watch out for? What do you have to do?

A Well, as I mentioned, it is according to where you would be working in this gravity yard. If you were in our particular territory there, the descent is to the east and a man working at the east end of these five different yards always is careful because of the fact that any track not being secured would run into the side of the operation which he is switching.

Q So you would have your fieldman there?

A That is right.

Q Is his job limited to securing cars or does he have other duties as well?

A Some of these leads are very long and he may get long switches that the conductor could not get and he just watches the track for fouling other tracks. He keeps his eyes on the tracks.

Q You said that you as conductor turn some switches and supervise the work. What does the headman do?

A Generally cuts off the cars.

Q Do you as yard conductor have duties or

do you not which would take you away from the actual work that is being done?

A No, because if you were to be removed, under the full crew law of the State of Ohio you work as a team, you do not remove yourself.

Q Do you or do you not have occasion to be in touch much with the yard office or yardmaster during your tour of duty?

A Well, they are generally out there; they are pretty busy; they give you the list. They see you are not anywhere. They are right out there to hand you the next performance.

Q When you enter busy industrial premises such as you have mentioned at Willis Overland where there are motor cars and people and so on, as you have told us, what is your practice as you are about to go into that yard and do switching work in that yard?

A Either the foreman or the fieldman goes into the track first and notifies all workmen on or about the cars or the tracks that we are shoving in there with a movement of cars and to stay in the clear until we complete the switching movement in that particular track.

Q In your experience is that all you need to do?

A No, because when you pass them they say, "Yes, I will stay in the clear," and the next thing you know there is a truck backing up to the dock or else there is somebody jumping off the dock or there are things tipping over, lumber and the like, blocking the track.

Q In those situations you have just described, Mr. Collins, do you think that the helper on the other side of the engine cab can or cannot be of value to the crew and to the switching movement?

A In the 35 years I have never had any accident, not serious. We have had a few trivials, but I do not recall having-- never to my working around have I ever had any accidents and I attribute it to the teamwork of the five men.

Q What in the teamwork in your experience in yard service is the function that the fireman or helper performs, if any?

A Well, he has his eyes on the left side of the cars which we are handling, switches on the left side, any pedestrian or automobile traffic over public crossings, which we have an unusual amount of in our particular neighbourhood.

Q By the way, Mr. Collins, do you know how high the New York Central Railway cars are?

A Well, that is a sort of moot question to me because of the fact that we haul a lot of frames for trucks and automobiles and they will reach 18 to 19 feet.

Q Say box cars?

A Box cars, well they will range all the way, inside height 10 feet 6 inches to about 12 feet, and as high -- some roads, western roads in particular, such as Union Pacific, Santa Fe, the Soo Line, the Grand Trunk Western, they will run 15, 16 and 17 feet.

Q Do you handle some of those cars in Toledo?

A We do. We are an interchange. It is a standard gauge railway.

Q In your experience would the height of a car affect in any way the question of visibility from a diesel engine?

A Positively. On a 15 or 16-foot car a man could not place himself anywhere on that car for the engineer to see him unless he was hanging from the side on the ladder.

Q What would you say as to that?

A Very unsafe. We would not tolerate it and the officials of the New York Central will not tolerate it.

Q Would this be your statement, that it would not be possible to see a yardman on

a car as high as 16 or 17 feet -- would that hold if the car was attached to the nose of the engine as well as to the cab, or would there be a difference?

A There would be a difference. I presume that the engineer could see if the engine were turned.

Q Which way?

A With the nose towards the cut of cars. The engineer would be removed back 12 to 15 feet and I presume that he could see.

Q Your statement then related to the --

A With the cab of the engine next the cars it would be impossible to see if the man was on top, to be in a safe position. That is on high cars.

Q Excuse the question, Mr. Collins. If the New York Central Railway were permitted to do so and decided tomorrow or next month to remove the helper from the diesel engines on the New York Central Railway in yard service, what would be your reaction as a yard conductor to the absence of the fireman on the engine?

A I think my record would be shot; personally I would not feel very safe in trying to switch cars in his absence.

MR. LEWIS: Those are all the questions I have, Mr. Chairman.

BY MR. SINCLAIR:

Q Mr. Collins, are there any switching movements conducted on the New York Central without a fireman?

A Not in my territory.

Q But you do know that there are switching movements conducted on the New York Central without a fireman?

A I would not know.

Q With under 90,000 pounds weight on the drivers?

A I would not know.

Q Have you ever seen any industrial switching done with industrial engines without a fireman?

A Offhand I hear that they are, but I have never visualized that myself.

Q As I understand your evidence about this industrial job which you referred to as MC-2, you said that you used the fireman there because it was necessary and you could not turn your engine?

A That is correct, we could not turn it.

Q But actually you could turn it?

A Yes, sir, but we would have to go some distance to do that.

Q You mean some miles?

A That is right.

Q I think the purport of your evidence was that if you could turn it you would

do so, that is the way you would conduct your switching at that place?

A That would be right, but we would spend too much going and coming turning the engine; our eight hours would be up.

Q Far too many miles?

A That is right, sir.

Q Did you ever work with dual-control engines?

A No, sir.

Q Most of your lead switching is done with cars on the nose of your diesels?

A In particular yards, yes; in other yards it is a back-up movement.

Q You have worked with steam engines?

A That I have.

Q And you had back-up movements with steam engines, with the tender behind?

A That is right.

Q That has been taken away with the diesel and the engineman's view is much better for that reason?

A I would say yes; steam and the like of that would remedy that condition.

Q Also the fact that diesels do not leak steam is another advantage to the yardmen working around?

A That is right.

Q On a movement ahead with a diesel and with one of the ground crew taking the

engine out by positioning himself on the point of the moving engine ahead, would you not agree that that man has the best view of any possible position on that movement?

A With or without cars?

Q Pulling cars, the engine ahead?

A The engine ahead; yes he would have a restricted view, as I mentioned.

Q He would have the best view at the front of the movement?

A I would say he would have a restricted view, not the best; restricted.

Q Restricted from what?

A Anything to his left after going by a given point; his vision is obstructed.

Q What you say is he cannot see back?

A That is correct.

Q But as far as forward is concerned?

A The forward movement he can see.

Q He has the best possible vantage point that he could get, has he not?

A In our particular railroad we were never issued instructions to ride the front end; we have a rule governing such movements not to be on the front end of an engine and I have never seen any other order.

Q What you are talking about, is it not, is riding the footboard of a steam

engine in the direction of the movement, you are not talking about riding a platform of a diesel, are you?

A They have never issued instructions about the front of the engine; that is what I am stating.

Q I thought you were suggesting --

A It says riding the footboard, that is the rule, but they have never issued instructions to ride the leading end of an engine on the New York Central.

Q So you do not do it?

A No, we do not.

Q In so far as looking --

A They have done it, I will clarify that; a lot of men do it.

Q In so far as looking back is concerned, as your movement goes on how many times have you seen in a yard somebody walk into the side of a movement?

A To my personal knowledge, none, but hearsay, yes.

MR. SINCLAIR: That is all,
thank you.

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THE CHAIRMAN: Mr. Lewis?

MR. LEWIS: Thank you, Mr. Collins.

BY THE CHAIRMAN:

Q Mr. Collins, did I understand you to say that none of the yardmen on the New York Central ride on the side of any car for the purpose of passing signals?

A That is right, sir.

Q Regardless of whether it is a box car or a gondola or a flat car or anything else?

A In a switching movement?

Q Yes?

A Oh no, where the car would be of such a height then he would be on the side of the car. We ride them, yes sir. We ride them at all times.

Q Then I misunderstood you. I thought when you were giving that evidence you were saying that the railway officers would not tolerate anyone riding on the side of the car for the purpose of passing signals?

A No. The only time we would, Mr. Commissioner, is when the car would be of such a height that the engineer could not see and then we would drop down the ladder.

Q What did you say the New York Central would not tolerate?

A Riding the engine, the nose of the engine, in other words.

THE CHAIRMAN: Thank you.

MR. LEWIS: The next witness is Mr.
David Wellwood Tucker.

DAVID WELLWOOD TUCKER, sworn, examined

BY MR. LEWIS:

- Q Mr. Tucker, you are a fireman and also a qualified engineer on the New York Central Railway working out of Elkhart, Indiana, or Chicago, Illinois, depending on whether you are running as an engineer or a fireman. Is that right?
- A That is correct.
- Q And whether you run as an engineer or work as a fireman or helper depends upon the amount of work available on the engineer list?
- A That is right.
- Q Now, you joined the New York Central Railway at Streator, Illinois, in April, 1917, as a roundhouse employee and later as an extra fireman and were employed as a roundhouse employee and extra fireman for about a year. Is that right?
- A That is correct.
- Q In 1918 you entered the army in the first world war and were discharged in 1920 when you went back to the New York Central as a fireman on the Illinois division out of Kankakee?
- A Kankakee, Illinois.
- Q You worked there until about 1930 as a fireman and were laid off for most of the depression years and during that time served for many

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years as a policeman in Streator, Illinois.

Is that right?

A That is right.

Q Then, on December 6, 1940, you went back as a fireman on the New York Central Railway working out of Inglewood, Illinois?

A Inglewood -- Chicago, Illinois.

Q Inglewood is the name of the freight terminal in Chicago, is it?

A That is right.

Q And according to the seniority register of the New York Central your official seniority dates back to December 6, 1940, for certain purposes?

A That is right.

Q You had been examined for promotion to engineer or qualification as an engineer in 1930 but you were re-examined again in 1944 and in that year you qualified as an engineer? Is that right?

A That is right.

Q And in 1953 you were set up as an engineer?

A I was promoted in 1953.

Q And you have had, you told me, experience both as a fireman and as an engineer in all three branches, in yard, freight and passenger service?

A That is correct.

Q Both steam and diesel engines? Is that right?

A That is right.

Q Now, what about your record with the New York

THE UNIVERSITY OF CHICAGO

1900

TO THE PRESIDENT OF THE UNIVERSITY OF CHICAGO
FROM THE FACULTY OF THE DIVISION OF THE PHYSICAL SCIENCES

RESOLUTION PASSED AT A MEETING OF THE FACULTY
Held at Chicago, Illinois, on the 10th day of May, 1900.

Resolved, That the Faculty of the Division of the Physical Sciences
do hereby recommend to the President of the University of Chicago
the appointment of Dr. [Name] to the position of [Title]

and that the Faculty of the Division of the Physical Sciences
do hereby recommend to the President of the University of Chicago
the appointment of Dr. [Name] to the position of [Title]

and that the Faculty of the Division of the Physical Sciences
do hereby recommend to the President of the University of Chicago
the appointment of Dr. [Name] to the position of [Title]

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Central Railway, Mr. Tucker?

A You mean my discipline record?

Q Discipline record, yes?

A Well, as I recall I am sure of one instance that I received a 15 day suspended sentence because of an accident at Lasalle Street, Chicago.

Q How long ago was that?

A That would be in the middle forties. I don't remember the year exactly. I would think about 1946, and on another occasion I think that I had time, suspended time, when I worked on the Kankakee division but I don't recall the circumstances exactly. Those are the two occasions that I think I had discipline assessed to me.

Q And you are now local chairman, you informed me, and secretary-treasurer of Lodge 162 of the Brotherhood of Locomotive Firemen and Enginemen at Elkhart, Indiana?

A Well, I am local chairman of Lodge 162 at Elkhart and also secretary-treasurer of the general grievance committee, New York Central lines west.

Q You do not hold both offices in the local?

A No, the one is the general grievance committee, a general grievance committee office and the other is a local office.

Q Of the firemen's union?

A Of the B. of L. F. and E., yes.

Q I want to turn first, Mr. Tucker, with your help to certain evidence given by Mr.

Borntrager who was an official of the New York Central Railway. In volume 6, page 735, at the bottom of that page Mr. Borntrager said, dealing with the days of hand firing:

"As a matter of fact, at least in the hand-firing days, 75 per cent of his time" --

That is the fireman's time.

" -- was firing, and in the stoker days he had that, his line of responsibility was maintaining steam, looking after his equipment, fuel, and so forth. Consequently, in those days we could never hold the fireman responsible for look-out duties."

I will stop there and ask you some questions with regard to that, Mr. Tucker, first. Did you have much experience hand firing on the New York Central Railway?

A I had considerable experience, Mr. Lewis.

Q And in your experience in hand firing, what was your practice when firing with regard to look-out?

A We were taught when I went firing that safety was above the duties of firing, keeping steam. It was necessary -- if you had to delay putting the fire in the engine to watch conditions about you would delay putting the fire in.

Q And could you make any stab at an estimate as to how much of your time would be spent on

your firing duties when working on hand-fired engines?

A Well, that would be rather difficult because of the many types of jobs that a person fired on. For example, one would be in passenger service where the requirements of firing the engine were very light. In yard service they would not be very heavy and in freight service it would be a little different, so I don't believe I could give any accurate description of the amount of time.

Q Well, suppose you had -- we have had evidence of this, Mr. Tucker -- an engine that gave trouble or perhaps even an engineer that was troublesome in his firing demands. In that situation you would, would you not, spend quite a large proportion of your time attending to the firing duty?

A If you had trouble with an engine, I mean the steaming qualities of an engine, you could be more time in firing. It depends upon what the difficulties were.

Q Yes?

A And if you had an engineer that, as we say, did not hook her up you would have more time firing.

Q And if you had to spend more time on your firing duties, how were those duties carried out in connection with what you said before were your duties as to safety?

A Well, we were taught to gauge our firing duties with the requirements of safety. In other words, if the condition of the territory you were passing through was such that it was -- traffic was dense -- you would just ignore your fire until you got through that place or you would prepare before you got to it.

Q Now, in the same paragraph Mr. Borntrager went on to say:

"I have heard many investigations as a superintendent, and I never knew one yet where we had an accident" --

Speaking still of the hand-firing days.

"-- where the fireman was not down fixing the steam, looking after the coal, or something; so I do not know of any time, of any serious accident that you could hold the man responsible for it. Well, if you could not hold him responsible then, I do not see any particular reason. We hold the head brakeman or the front trainman responsible. He did not have any duties like that. He could do the look-out job. I do not see any reason, now that we are taking away the fireman's firing duties, and still have the head brakeman available, why we need anybody on duty look-out on the

left side of the locomotive."

MR. SINCLAIR: "I do not see why we need anybody else on duty look-out."

MR. LEWIS: Yes, I imagine that would be it, yes.

BY MR. LEWIS:

Q From your experience as a fireman in the hand-firing days, Mr. Tucker, have you any comment on Mr. Borntrager's statement that during those days "I never knew one yet where we had an accident where the fireman was not down fixing the steam, looking after the coal, or something, so I do not know of any time, of any serious accident that you could hold the man responsible for it."

Then he goes on to say that he held the head brakeman or trainman responsible. Have you any comment to make on that statement of Mr. Borntrager?

A Well, I am sure -- I don't know what territory Mr. Borntrager speaks of but from my experience in the territory I have worked in I have seen instances where the fireman was held responsible even on a hand-fired engine.

Q Would you, Mr. Tucker, give the Commission one or two instances of that just to complete that part of the record?

A Well, I never made any extensive survey of my files to get any particular cases but I

have some cases in mind that occurred since 1940, from 1940, in my experience on the main line that were on hand-fired engines, and with permission I would have to consult my notes to have the dates.

Q Go ahead.

A The first discipline assessed in my notes was to a fireman named Z. N. Jones from the Big Four Railroad, received ten days suspended sentence, February 15, 1940, for failure to look out resulting in derailment of an engine.

Q Was he on a hand-fired engine, do you know?

A He was on a hand-fired engine, yes.

D.W.Tucker

Q Have you any other example?

A On January 15, 1942, fireman L.B.Gibson, received 60 days' suspended sentence because the engineer ran through a red stop signal at Archer Avenue, Chicago, and the engine number was 4686.

Q And what kind of engine was that?

A That was a passenger engine and my thought is that it was a hand-fired engine although it was converted to stoker later.

BY MR. SINCLAIR:

Q It was hand-fired at the time is what you mean?

A Yes, I think so.

BY MR. LEWIS:

Q Have you any other examples?

A I have.

Q Yes?

A On September 20, 1946 at Ashtabula, Ohio, fireman N.G.Costa was assessed 10 days' suspended sentence for running through a switch and this is not from my personal knowledge of acquaintance with the case but from files in the General Chairman's office.

Q Yes; have you any other examples?

A On April 22, 1948, fireman R.E.Hackman received a 10 day suspended sentence for failure to look out resulting in a collision at Oliver's yard, South Bend, Indiana.

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A And both engines in this incident were hand-fired engines.

Q And was the engine that Mr.Costa was firing, the one you mentioned before the last one, do you know whether or not that was hand-fired?

A That was a hand-fired engine. 7677 was the number.

Q Aside from those particular instances you have mentioned, Mr.Tucker, can you tell the Commission what your recollection is of the responsibilities of firemen on hand-fired engines for lookout on the New York Central Railway in your experience?

A The fireman has been held responsible for lookout on his side at all times since I have been firing.

Q On page 763 of the transcript and the following pages --

THE CHAIRMAN: You are going on to something else?

MR. LEWIS: Yes, I am.

THE CHAIRMAN: Then we will break.

-- The Commission took recess.

-- After recess.

BY MR. LEWIS:

Q .On page 763 of the transcript and the following pages -- or perhaps it starts

at page 764, I do not remember, --
Mr. Borntrager gave evidence regarding
an accident which occurred -- he said
first at Ripley, New York, and later
Ripley, Ohio. Where was that accident,
do you know?

A It was Ripley, New York.

MR. SINCLAIR: I think I said Ripley,
Ohio. I think it was I who kept putting
in Ohio.

MR. LEWIS: In any event I thought
we might as well keep the record straight.

BY MR. LEWIS:

Q Where did it take place?

A Ripley, New York.

Q If I may summarize, Mr. Chairman, and
if my summary is in any way unfair or
inaccurate no doubt the Commission will
be informed, Mr. Borntrager's general
evidence about this very serious and
regrettable accident at Ripley, New
York which occurred on February 8, 1957,
was to suggest that the engineer had
listened to what the fireman had told him
about the signal indication and that it
was the chattering by the fireman that
contributed to the accident which took place.

Now, Mr. Tucker, have you or have you not
read the transcript of the evidence of
the investigation carried out by the

D.W.Tucker

International Commerce Commission in the United States; -- rather, the Interstate Commerce Commission of the United States?

A I have.

Q And have you or have you not read the report issued by the I.C.C.?

A I have read the report of the findings of the I.C.C. Commission.

THE CHAIRMAN: That report had not been given at the time Mr. Borntrager gave his evidence?

MR. LEWIS: No sir, it had not.

BY MR. LEWIS:

Q Mr. Borntrager gave his evidence on March 11 and March 12 of this year. Do you know whether the transcript of evidence was available at that time?

A It was not.

Q And the report; do you happen to remember the date of the report of the investigation?

A It was April 25, 1957.

Q And do you know from examining the transcript and the report whether Mr. Borntrager was present at any of the investigation or at any of the discussions during the investigation?

A The report of the transcript of the investigation does not indicate that Mr. Borntrager was present.

Q Now, from reading the transcript and the report, Mr. Tucker, would you as briefly although as fully as you can -- and try to

D.W.Tucker

make it as brief as you can -- give the Commission the facts as they emerged in the transcript and the report -- the facts of that accident?

A Well, it would be quite lengthy, but a brief explanation I think would not take too much time. The facts, as I understand them from studying a transcript of the investigation and the report of the I.C.C. Commission --

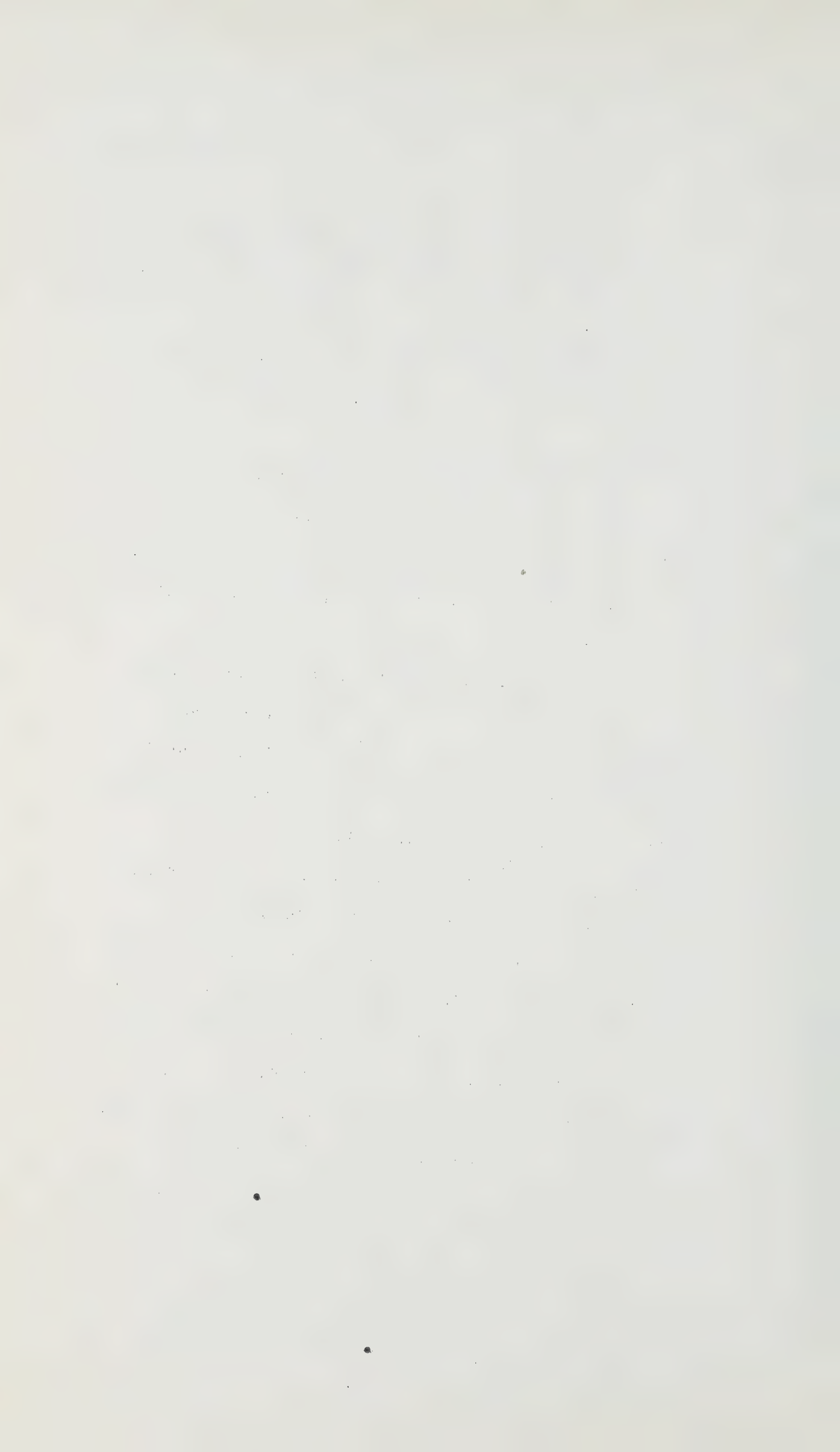
BY THE CHAIRMAN:

Q Excuse me, was this accident where both the engineer and fireman were killed?

A No, this is where the engineer was killed. The facts, as I read them, were that Train 74 --

MR. SINCLAIR: A passenger train?

THE WITNESS: A passenger train was approaching Ripley, the scene of the accident, eastbound, and the fireman and the engineer called a yellow signal at 672-E. Under our rule the engineer is required to make a brake application and a reduction in speed before passing that signal, which in this instance the engineer did. Before arriving at the signal the fireman called the signal green. It was his understanding that it had changed from yellow to green, but this was in very close proximity to the signal itself. The engineer, in the motion of forestalling the train, controlling by the signal, had just continued the motion and held the forestalling lever in the forestalling position, and in passing over the inductor there was no signal whistle in the cab to indicate that the signal was other than clear.



BY MR. LEWIS:

Q Would there be one normally?

A In the event the signal was in a restricted position there' would be a whistle in the cab.

Q But there was none at this time?

A In this instance there was no whistle in the cab. From the fireman's testimony, the engineer stated he thought the signal had gone green also, so he released the brake and proceeded to accelerate speed again and when he arrived at about 68 miles per hour he saw the indication of the next signal, 662-E, and it was in a red position. He immediately placed the brake in emergency but was unable to stop the train in time to avoid striking a freight train that was crossing over from No. 2 track to No. 1 track at the point of the accident.

BY THE CHAIRMAN:

Q Does that mean, Mr. Tucker, that the signal they thought was green, in fact had not been green?

A That is right, evidently, although it was never proved definitely whether the signal actually was green or was not green.

BY MR. LEWIS:

Q Have you had experience with this -- what is it, central train control?

A It is inductive -- intermittent inductive

automatic train stop; it is not a control, it is a train stop.

Q Have you had experience with that intermittent, etc., yourself?

A I have, many times.

Q And is it possible for the signal to have been yellow or green and then turn red after you have passed it or anything like that?

A I am sorry, I do not understand your question.

Q Could a signal be changed on you after you had seen it was green, assuming you had seen correctly, or could it not?

A In this particular instance the signal was yellow.

Q When they started reducing speed?

A When they first observed it.

Q Have you had experience of a false indication of the signal?

A I have, yes.

Q The report of the I.C.C. investigation, did it find anything was wrong with the induction and the failure to hear a whistle in the cab when they went on, do you know?

A The report of the I.C.C. Commission was that the inductor at Signal 672-E was defective and under these conditions there would be no whistle in the cab of the locomotive.

Q From your experience, if that had not been defective and they had read the signal wrongly, what would have happened?

A The whistle would have blown in the cab and the engineer would not have released his brakes.

Q Is there anything on page --

THE CHAIRMAN: Are you leaving that?

MR. LEWIS: No, but it is all right, sir.

BY THE CHAIRMAN:

Q I should like to ask this, while it is in my mind and we have Mr. Tucker here, if the signal that the engine passed in fact was yellow, does that mean that the next signal was red?

A It would in some instances, Mr. Commissioner, although it could be another yellow.

Q It could be either?

A Yes.

Q Could it be -- the second signal could not be green if the first one was yellow?

A No, it could not.

Q So, really, this incident is just a case, so far as we can form an opinion on this evidence, where neither the engineer nor the fireman saw a yellow warning signal and where they did not have the benefit of a whistle in the cab?

A That is right.

MR. LEWIS: I do not know whether I heard you correctly --

BY HON. MR. MARTINEAU:

Q They made a mistake and their attention was not drawn to it by the whistle?

A Their assumption was that the signal did go green. They had no way of knowing it did not go green because the whistle did not blow when they crossed over the inductor.

MR. LEWIS: I think, Mr. Chairman, you said that neither the fireman nor the engineer saw the yellow signal.

THE WITNESS: They saw the yellow signal on approaching it, but they thought it changed as they approached it.

BY MR. LEWIS:

Q If the signal had remained yellow and not changed to green would it have sounded the whistle?

A If the inductor had not been defective. In the event the engineer did not forestall the device, by that inductor, the brake would have automatically went into service position -- provided of course the inductor was not defective.

Q One point; at page 766 Mr. Sinclair, I think it was, asked Mr. Borntrager:

"Q. In your opinion what was the cause of that accident?

"A. The engineer failed to observe his rule. His rule is to get down there, regardless.

Q. And what in your opinion did the fireman do?

A. I think he contributed to it; he led the man into it. But, the engineer should not have done it."

In your reading of the transcript and the report is there anything in the evidence to justify or is there not, to justify Mr. Borntrager's statement that the fireman led the engineer into it?

A May I comment on Mr. Borntrager's statement regarding the rule?

Q Yes?

A The rule does not provide that he must get down. If he makes a brake application before he arrives at this signal, and the signal indication changes to clear, then he is not required to go down. He can release his brakes and proceed at maximum speed. But, if the signal does not change, then he must continue to go down to the signal indication which, in this case, would be medium speed, 30 miles an hour.

Q Have you any comment to make on the basis of the evidence which you have read in regard to Mr. Borntrager's statement that the fireman led the engineer into it?

A I would deny that was the case from my reading of the transcript of this investigation and the fireman's testimony, because the fireman merely stated that the signal cleared and the engineer, after forestalling, received no whistle and stated it was his thought that the signal had cleared also.

BY THE CHAIRMAN:

Q Did the record indicate whether he said that because he thought he had seen it change from yellow or simply from the absence of the signal?

A He said that he thought he had seen it change. The mere fact that the inductor whistle did not blow confirmed his thought.

BY MR. LEWIS:

Q Then, Mr. Borntrager dealt with an accident which occurred at Little Falls, New York, in 1940. This accident, you will remember, Mr. Chairman and members of the Commission, is where there was also a Foreman of Engines on the engine and where the engineer and fireman were both killed. The Road Foreman of Engines, Mr. Dayreuther was the only one who remained alive. Mr. Borntrager said, I am just quoting from memory, that he was so shocked he could not give a very coherent account of what had happened.

This accident Mr. Borntrager gave

as another example of the distraction that might be caused by firemen which would lead to an accident. Now, have you read the I.C.C. material with regard to this accident at Little Falls, New York, in 1940?

S-2

A I have.

Q Would you be good enough, Mr. Tucker, again in the same brief and very clear way that you described the former accident, describe this one from your reading of the I.C.C. material?

A Well, this particular train approached a curve near Little Falls, New York, where there is a restrictive speed order. They were approaching at maximum track speed. The engineer had not made any effort to control his train before arriving at this curve.

BY THE CHAIRMAN:

Q You mean reduce his speed?

A Pardon me?

Q You mean reduce his speed?

A That is right, and the Road Foreman, Mr. Bayreuther, notified the engineer of this fact and he made an application of the brakes. But as they were approaching closer to this restrictive point the Road Foreman was not satisfied with the reduction in speed, so he walked over to the engineer or the engineer's side of the cab and noticed

the reduction on the gauge of the brake pipe pressure which indicated about eleven pounds. He informed the engineer that this was not enough, so the engineer at that point reached up and shut the engine off, shut the throttle, and the slack of the train ran in and this accident happened.

It was the finding of the Commission that this accident had occurred because of excess speed and the action of the slack running in and boosting the hind end of the engine up over the rail causing it to turn over, but there was no indication in the transcript of this investigation that indicated that the fireman had anything to do with it.

BY MR. LEWIS:

Q Was there anything in that transcript suggesting that the fireman had said anything during this incident?

A There is nothing.

Q Have you or have you not been in correspondence with this Mr. Bayreuther, that is the road foreman of engines who was on that train?

A I have received communications from Mr. Bayreuther.

Q Do those communications support or do they not what you read in the transcript?

A They do.

Q Then the third accident that Mr. Borntrager cited to the Commission as an example of the same general suggestion that a fireman could be a distraction and contribute to accidents was an accident that occurred at Canastota, New York. Here also there was an engineer and fireman on a steam locomotive and there was also a road foreman on that engine. In that accident unfortunately all three men were killed as a result of a steam power boiler explosion, to use the words used by Mr. Borntrager. Then Mr. Borntrager went on at page 763 of Volume 6:

"We were particularly disturbed about it because an investigation developed that the low water alarm, which was on this locomotive and which would have warned them that the water was low, was in an acting position; tests on other locomotives proved that it was working. That is the only clue we got -- the low water alarm was working. They did not pull the fire, and they went to kingdom come. Why they did not pull the fire, we do not know."

Have you investigated the record of that accident?

A I have.

Q Would you again give the Commission the benefit of your investigation as to whatever facts were available since all three men were killed in that accident?

A At the time this accident occurred at Canastota, New York -- I am employed on the Western Division at Chicago, Illinois, but this particular engine had been my assignment many days prior to this occurrence. It is my knowledge that the feed water-pump on this engine had been giving trouble for some time.

As to the exact nature of the trouble on this particular day, I am not

in position to state, but the I.C.C. Bureau of Investigation report on this accident stated that the cause of the accident was low water, that there were not sufficient protective devices on the engine, and recommended that these engines be equipped with these devices.

The statement that the fire was not pulled, or dumped as we call it, which they did not know why, I am at a loss to explain why that occurred because the supervisor who was riding that engine had the authority to order the fireman to dump. There would have been no question about it.

Q What train was it, do you know?

A As I remember it, Train No. 26. That would be the Twentieth Century Limited.

Q That is the Twentieth Century Limited?

A As I recall.

BY THE CHAIRMAN:

Q Perhaps I do not quite appreciate this as I should have appreciated it. Are you criticizing or disagreeing with the judgment of Mr. Borntrager as to the reason for this occurrence, or are you agreeing with what he said about it as being the logical conclusion?

A Well, in part I agree with Mr. Borntrager, but the statement of Mr. Borntrager that

there was some kind of confusion as to who had authority to order the fire dumped, I disagree with Mr. Borntrager on that.

BY MR. LEWIS:

Q You say that the road foreman would have had authority to order it dumped?

A In this particular case it was a travelling fireman, but they have comparable authority.

BY THE CHAIRMAN:

Q You would agree that under those circumstances the fire should have been pulled or dumped?

A Yes, I do, much before the time the explosion occurred.

BY MR. LEWIS:

Q Let me put this question to you. There was on that engine a fireman, an engineer and what you call a travelling fireman?

A At that time the rating was travelling fireman.

Q Is that the same category as road foreman of engines?

A He would be designated a road foreman today.

Q In that situation with those three men there you were saying that the road foreman of engines definitely would

have authority to stop the train, to dump the fire and thus stop the movement; that is your point?

A That is my instructions.

BY THE CHAIRMAN:

Q Would the fireman need any instructions or is that something the fireman should have known himself? I do not know, I am just asking you.

A The fireman should have done that himself without instructions.

BY MR. LEWIS:

Q Suppose the travelling fireman was not there, normally would the fireman have to consult the engineer before doing it, or would he just do it on his own without any such consultation?

A Naturally he would consult the engineer as to dumping the fire, but I don't believe it would be necessary for him to have orders from the engineer.

Q Since everybody must conjecture as the three unfortunate men were all killed, what if anything would the fact that these men were running what could be considered a first-class train, if a train could be graded as first class, such as the Twentieth Century; what bearing would that have on what happened?

A I would think that the opposite of Mr. Borntrager's statement would apply in that case, that the engine crew would have desired to pull the fire on this engine but that the travelling fireman will more or less suggest that they not do it so that he could get this train over the road.

Q That would be your conjecture?

A That has been my experience.

Q Now, at pages 738 and 739 of Volume 6 Mr. Borntrager was dealing with the watching rule trains and he informed the Commission that there was a pool of engines consisting of about 155 units from which the engines for these express passenger trains were taken, from which they were assigned to the service. During the course of his evidence he stated at one place that there is a lot of the type of service, of watching rule passenger service on the New York Central, and at the bottom of page 739 he suggested that a large percentage of these engines would be used on watching rule passenger trains. Have you looked into the question of the number of watching rule trains the New York Central Railway in fact has?

MR. SINCLAIR: He was talking

about a specific pool, as I read the evidence.

MR. LEWIS: A pool of diesel units from which engines for this express passenger service were taken, and I am just asking the witness whether he has looked into the question of how many watching rule passenger trains are being operated. No doubt the Commission remembers the reference to watching rule trains.

BY MR. LEWIS:

Q How many watching rule trains is the New York Central Railway now running?

A Well, of course down through the years since 1950 the number has changed considerably. In 1950 the bulletin included quite a large number of trains that came under the watching rule, but in 1954, as I recall it, particularly on some of the western divisions; in May 1954 an order was issued by the superintendent of that division stating that only Trains Nos. 68, 26 and 70 would come under the watching rule.

Q Are they three separate trains?

A No, they are not. Trains Nos. 68 and 26 are separate trains, but on Saturday there is a combination of both and it is numbered 70 on that day. That train does not come under the watching rule;

since the issuance of that bulletin Train No. 68 has been taken off the watching rule because that is on the Western Division and it has three intermediate stops between Inglewood and Elkhart.

In May, 1954, if I recall the month correctly, the Cleveland Division, Mr. A. G. Teals, superintendent, issued a bulletin stating that no trains would come under the watching rule.

I think in June of the same year, 1954, the superintendent of the Ohio Central Division issued an order that no trains would come under the watching rule.

On certain divisions other than the three mentioned there are certain numbers of trains, but I do not have the bulletins controlling those certain divisions.

Q From your knowledge of the bulletins you have read and from working on the New York Central Railway, would you say that during 1956 and up to March, 1957, the New York Central Railway had a large proportion of trains under the watching rule?

A I would say they do not have.

Q From your knowledge of the Cleveland

Division, how many trains do they have under the watching rule, or how many did they have in March of this year?

A They had one, No. 26.

Q At page 747 of Volume 6 the Chairman asked Mr. Borntrager:

"What would be the position of the head trainman in the cab?

By Mr. Sinclair:

Q. Where would the head trainman sit in a cab on the New York Central system?

A. He would sit on the left-hand side of the cab."

At that time they were dealing with steam engines. Then Mr. Sinclair continued:

"Q. Since the diesel power has come in has there been any change in the engineman's duties?

A. Basically he is still responsible for the same thing as he was before, that of operating his engine."

I have gone beyond what I needed.

--

Now, first, from your experience and recollection of the hand-fired engine, where on the New York Central Railway was the seat for the brakeman?

A There was a combination seat on the left side for the fireman and the brakeman. In fact, it was called a seat box.

Q Yes?

A And in very cold weather the brakeman would sit in front of the fireman with his leg between the boiler and the side of the cab to keep warm but in quite warm weather or hot weather he would not sit there because it was too hot. The fireman would be alone on the seat box then.

Q Where would the brakeman be in the warm and hot weather when he did not sit on that seat box?

A He would be somewhere back on the train riding in a car.

BY THE CHAIRMAN:

Q How could he keep a look-out back there?

A I couldn't answer that.

BY MR. LEWIS:

Q Are you talking about a freight train or a passenger train? Of course there would not be one on a passenger train, I am sorry.

Now, on a stoker engine where would the brakeman sit?

A He would sit on the left seat box behind the

THE [illegible] [illegible] [illegible]

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[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

fireman.

Q And have you ever run or fired an oil-fired engine?

A I have not.

Q Then, on the diesel engines on the New York Central Railway, those that you are acquainted with in your area, what is the seating arrangement?

A The seating arrangement -- I assume you are talking of covered wagons and road switchers.

Q Well, let us first deal with the covered wagon. That is what we have called the car body type, is it?

A That is correct, the enclosed type.

Q Let us deal with them first, the covered wagon or car body type as we have been calling it here. What is the seating arrangement there?

A There is one seat on the right side, one on the left side and one in the middle.

Q And is there any view for the man sitting on the seat in the middle of a covered wagon type of engine?

A It is very limited unless he stands up.

Q And on what you call the hooded type or what we have been calling the road switcher type of engine, what is the seating arrangement?

A Except for a very few, and I think those were Alco road switchers, the seating arrangement is identical to the covered wagon except, as I say, for the Alco road switcher. Then

they have some that have two seats on the left side, one in back of the other one.

Q I do not recall now whether I asked you or not. You said that on the covered wagon diesels and on most of the road switchers there was a seat on the left, a seat on the right and a seat in the centre. Who would occupy the seat on the left and who sat in the centre?

A The fireman would occupy the seat on the left and the head brakeman the seat in the centre.

Q And on the road switchers where you have a seat in the centre and the head brakeman occupies it, what view has the head brakeman sitting on the seat in the centre of a road switcher engine?

A He would merely be able to see the panel of the engineroom.

Q In the few road switchers on the New York Central which you say do have a seat on the right and two seats on the left, one behind the other, what is the practice in the territory with which you are acquainted as to where the fireman sits and where the brakeman sits in the two left-hand seats?

A The fireman would sit in the forward seat and the brakeman in the rear seat.

Q Have you had any experience of any exceptions to that?

A Not personally I don't have.

Q Do you know of any exceptions to that?

A No, I don't.

Q And at pages 727 and 728, and I think earlier and later, Mr. Sinclair was asking Mr. Borntrager questions about switching movements and the giving of signals through the fireman rather than directly to the engineer, and if I am summarizing Mr. Borntrager's evidence correctly he said that the cases where signals would be given through the fireman were exceptional and that in his opinion some means could be found such as a signal mast or dual control to overcome the difficulties in those exceptional cases. On the territory in which you have had experience, Mr. Tucker, would you give the Commission the benefit of your experience as to signal passing through the fireman and some examples of where they take place?

A Well, I am acquainted with the switching movements at, for example, Inglewood Hill, the westbound switching lead. This particular lead is equipped with a signal mast to facilitate the switching of cars, and at this particular point even though this signal is operating --

Q Which particular point?

A At the Inglewood Hill switching lead, the westbound switching lead, and even with the signal mast in operation -- incidentally,

it is operated by the conductor for these movements -- there are times when the engineer cannot even see the signal mast on account of the curvature of the switching track and it must be seen by someone on the left side of the cab. There is times when the left side of the cab cannot see this signal and the engineer would be in a position to see it, and there is definitely no way to correct it except to straighten the track, which I don't believe would be done there. There is also at Lasalle Street depot, Chicago --

Q Yes?

A The switching in that territory is all done with the engine headed into the depot, that is, the nose of the engine would be headed north into Lasalle Street depot, and the tracks from No. 9 to No. 1, the curvature is to the fireman's side and also at that point there is an express shed that comes off of No. 1 lead to this express shed, and the shed is on the engineer's side and the clearance is so close that you don't even put your head out the window when you go there, so all of the movement there is done on the fireman's side.

Q Could you have a mast signal in the Lasalle depot for the switching movements?

A No, you couldn't. The movements are

controlled by interlock dwarf signals. All movements are controlled and also, of course, by hand signals from your crew, and any signal other than these dwarf signals would be in conflict and I don't believe it would be permitted.

Q What do you mean, "would be in conflict"?

A Well, the one signal would conflict with the other one. You naturally couldn't take the signal from both for one movement.

Q Can you give another example from your experience?

A Well, at this same point track No. 1 into the depot is along the wall of the depot, that is, the most easterly wall, and there is not room for the switchman to move on that side so therefore he works on the fireman's side, and at points other than this where the platform is between the tracks on the fireman's side, the clearance between the two tracks is not sufficient to work and the crew always works on the platform side and also to protect the passengers that are using that platform.

Q How do they protect the passengers by signalling from the platform?

A Well, naturally if they were on the other side they couldn't see what was going on on the platform and while they are there they can see if any passengers or any

equipment that the workers are using there obstructs this movement and therefore stop it.

Q Now, can you tell the Commission anything about switching from Inglewood yard to South Chicago or to downtown Chicago?

A Yes, we have two jobs that work between the Inglewood enginehouse and Twelfth Street. One works what is known as the short side track between Inglewood and Root Street. The other job known as the long side track works from Root Street to Twelfth Street. This work is all on the east side of the railroad. The Rock Island works the other side.

Q Where does the track lie along there?

A This track from which these switching movements are made is the next track to the elevation wall; in other words, the track is right next to the wall where you drop off to street level, and the engines working both of these jobs are headed north.

Q I don't think you have yet made this clear, Mr. Tucker. Does the track lie on the ground level or does it lie on an elevated --

A It is all elevated. It is elevated from the Indiana state line to Lasalle Street depot. These engines working these jobs, they have these different industries between Inglewood and downtown and they work both ways. In other words, some

switches will run in north, some will run in south. Therefore movements to the south would be on the engineer's side if permissible, if the clearance was permissible, but the switching movements to the north would be on the fireman's side because of the elevation drop-off and, of course, building clearances also.

Q And in your experience have they been and are they on the fireman's side at the three places you have mentioned?

A Always.

Q And do you know what advantage there could be, if any, from the signals being given from on top of cars, let us say on this elevated track from Inglewood to Twelfth Street?

A In some cases it could be done although it would be dangerous to place a man up there, but in some cases it could not be done because these cars enter buildings and the clearance is too short on top of the car for anyone to be up there.

Q And from your experience working -- what yards have you worked in? I don't think I have asked you that?

A What yards?

Q On the New York Central?

A Since 1940?

Q No, since --

MR. SINCLAIR: 1922.

BY MR. LEWIS:

Q Since 1940 when you came back and before that?

A I have worked, since the beginning of my experience I have worked at the Depew, Illinois, yard, the Streator, Illinois, yard, the Kankakee yard, Snyder, Indiana, South Bend, Indiana, Elkhart, Indiana, and all of Chicago.

Q In all these yards you have worked in are the three instances which you have described to the Commission the only ones you have experienced where signals have to be given through the fireman, or are there others?

A I don't understand your question.

Q Are the three instances you have given, namely, the Lasalle depot, the westbound switching at Inglewood and the switching on the elevated track from Inglewood to Twelfth Street in Chicago, the only instances of signals being given to the fireman and having to be given to the fireman --

MR. SINCLAIR: Which?

MR. LEWIS: Pardon?

MR. SINCLAIR: All right, go ahead.

HON. MR. McLAURIN: Are these the only locations?

BY MR. LEWIS:

Q Are they the only locations where signals

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have to be given to the fireman or have you in your experience known other locations?

A There are other locations, many of them.

THE CHAIRMAN: What is your submission going to be about these geographical foreign places?

MR. LEWIS: Well, Mr. Chairman, if certain very eminent gentlemen from the United States of America and the continent of Europe had not appeared on the witness stand, having been called by the railway, and had not discussed places and movements and habits and practices, I think I would have been inclined to agree with what I think is the suggestion in your question, sir, that perhaps these are not entirely germane to a consideration of the Canadian Pacific Railway situation.

THE CHAIRMAN: No, I was just asking the direction and I suppose you have answered it really as to the reliability of Mr. Borntrager's evidence in this field. Is that it?

MR. LEWIS: I would rather avoid answering "yes" to that because it suggests a sort of personal slur on Mr. Borntrager which I am sure you did not intend and which I am not interested in making.

THE CHAIRMAN: Well, neither am I.

MR. LEWIS: No, I was sure of that, sir, but I think this evidence has two purposes, if I may say so. One is to show that management on the one side and the people doing the job on the other in the United States as well as in Canada seem to gain a different impression of exactly what they do and what the best way of doing things is, which is, of course, what creates the problem for this Commission.

THE CHAIRMAN: Of course, I think the passage of Mr. Borntrager's evidence on which you founded this line of question was one in which he said that there were mast signals which would take care of it and in other cases dual control engines.

MR. LEWIS: I was going to ask Mr. Tucker about dual control engines. I am not pursuing this very much longer, sir, so that the time consumed will not be great.

THE CHAIRMAN: I think perhaps we would all be fresher in the morning at ten o'clock.

MR. LEWIS: Right, sir.

-- The Commission adjourned at 4.03 until 10.00 a.m. Friday, May 31, 1957.

ROYAL COMMISSION ON EMPLOYMENT OF FIREMEN
ON DIESEL LOCOMOTIVES IN FREIGHT AND YARD
SERVICE ON THE CANADIAN PACIFIC RAILWAY

45

PROCEEDINGS

DATE: May 31, 1957

PLACE: Ottawa Ont.

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Hon., Mr. Martineau

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I N D E X

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ROYAL COMMISSION ON EMPLOYMENT OF
FIREMEN ON DIESEL LOCOMOTIVES IN
FREIGHT AND YARD SERVICE ON THE
CANADIAN PACIFIC RAILWAY

Proceedings of public
hearing held at Ottawa,
Ontario, Friday,
May 31, 1957

PRESENT:

Hon. R. L. Kellock,	Chairman
Hon. C. C. McLaurin,	Member
Hon. Jean Martineau,	Member
Douglas M. Fraser,	Secretary
A. R. Winship,	Asst. Secretary

APPEARANCES:

D. W. Mundell, Q.C.,	Representing the
C. J. A. Hughes, Q.C.,	Commission
I. D. Sinclair,	Representing the
Allan Findlay,	Canadian Pacific Railway Company
David Lewis,	Representing the Brotherhood of Locomotive Firemen and Enginemen

Friday,
May 31, 1957.

45th DAY

MORNING SESSION

----The Commission resumed at 10.00 a.m.

D. W. TUCKER, recalled.

EXAMINED BY MR. LEWIS:

Q Mr. Tucker, when we adjourned yesterday the question of equipping engines with dual control had arisen. Are you in position to discuss the usefulness and feasibility or otherwise of dual control on diesel engines?

A I have never seen any literature in connection with dual control nor have I seen any in operation. It would be my opinion that under the present braking system on locomotives it would be unfeasible.

Q When you say that, Mr. Tucker, exactly what do you mean, that you could not do it at all or that you could do it only under certain circumstances?

A Well, I would not say that it could not be done at all because I am not a mechanical engineer, but in connection with the automatic brake valves, the independent brake valves on an engine today, there could not be two sets of those brake valves in operation at the same time.

Q You say you are not an expert in this and perhaps you could give me your opinion for what it is worth. Would you have to stop and move your brake

controls over or move your brake valves over before the dual control would become effective; is that what you mean?

A There would be a set of brake controls on each side of the cab, I assume, and it would be necessary to disconnect one and to cut in the other one if you were to move from one side to the other.

THE CHAIRMAN: If the witness has not seen nor read any literature it is hardly very helpful.

MR. LEWIS: No, I do not think so.

BY MR. LEWIS:

Q Now, Mr. Tucker, there are some incidents which you discussed with me and which I would like to put on the record and have brought to the Commission's attention. Do you recall one that occurred in the summer of last year when you were acting as an engineer in the Lasalle depot?

A On this particular occasion we were taking No. 68, a light engine, to Lasalle Street for a train for the run from Chicago to Elkhart and the fireman, named Green, was on the left side of the cab on this particular occasion.

We were going into Track No. 10 of the Lasalle Street depot and there was a Santa Fe locomotive with three cars

coming out of the depot on a curve close to Track No. 10. The clearance between those two tracks is very close.

There was a switchman on the last car side -- as it turned out I did not know this at the time we were heading in -- there was a switchman on the last car of this cut as they were backing out.

Q That is the Santa Fe cut?

A The Santa Fe cut. He was hanging out on the side looking towards the depot, that is not in the direction he was moving. The fireman with me seen this incident and told me to stop, which I did, but the Santa Fe engine didn't stop and this brakeman struck our engine and was knocked underneath our engine and injured seriously. Had I not stopped before this happened I am confident we would have run over this man.

Q Then, Mr. Tucker, do you recall an incident that happened in November of last year when you were firing a passenger train from Elkhart to Chicago?

A Yes, sir. On this particular date I was with Engineer P. F. Shea. We arrived at the Lasalle Street depot. I believe it was Train No. 61. We had one A unit and one B unit. On arriving at the depot track we were cut off from

our train and the coach run job at Lasalle Street depot would take our train to Root Street and we would back the engine light to Englewood, a distance of seven miles.

About the time that the coach run engine was pulling our train from the depot a Rock Island suburban train pulled in on the track next to us on the fireman's side. Of course when our train was a certain distance from the depot I told the engineer that it was gone and we could back up, and we started backing. A woman got off the Rock Island train on the wrong side, which is not uncommon, and stepped directly into the front of our engine, that is the B unit.

We struck her. I had already hollered to the engineer to big hold her, which he did and stopped. I immediately got down and went around the back of the engine and looked underneath to see if I could see anyone and could not as it was so dark. So we got some of the car inspectors with lights and we examined underneath the engine completely and could not find anyone.

It turned out that the lady who

had been knocked down had got up and went back through the train she got off of and went through the depot. She was not injured.

Q Can you recall an incident that happened just recently at the end of April of this year at the Root Street yard in Chicago?

A Yes, I do. I was engineer on the night job, one of the night jobs at Root Street yard with a fireman named L. P. Frawley.

Q That is a yard job?

A Yes, it is, a passenger coach yard job. About 4.00 o'clock in the morning I asked the fireman if he cared to run the engine a while. He was an examined man and he said yes he would. We were to take up two cars and were pushing them incidentally around a left-hand curve into an empty track with a bumping post on the end and a building, a storehouse building.

There is a decline on this track, quite a grade towards the bumping post. As we were going down this decline I saw the first car of these two moving faster than we were so I determined it had broken off. I immediately notified the fireman, who

was the engineer in this case, to stop.

Q You were acting as the fireman?

A I was acting as the fireman. He stopped. This car of course had broken off and was running away. One switchman was on the front end of this car and one switchman was on the front end of our engine, but with the curvature of the track as it was they could not see each other.

This car ran down and went over the top of the post and broke all the steam pipes and air connections and everything that was there. Had I not seen it we would have all been in it because of the curve.

Q Now, Mr. Tucker, can you tell the Commission when the New York Central in the regions with which you are acquainted became fully dieselized?

A I would say a little more than a year ago.

Q From your recollection, when did they begin to use road diesels in passenger and freight?

A It would be sometime in the middle forties, the 1940's.

Q When did you get your training on diesel engines?

A It would be at that time, when they first arrived on the New York Central.

Q Were you then a fireman or had you been promoted to engineer?

A I was a fireman then.

Q Would you tell the Commission what if any training you received on diesel engines at that time in the forties when they first came on?

A When the diesels first arrived it was in freight service and we were instructed of course on the different appliances, how to re-set certain protective devices and also to take care of the oil, the shutters, the cooling fan shutters. At that time they were manually operated, the cooling fan clutch devices, and they had to be cut in and cut out at different times.

Q Do you still have those?

A No, we do not; they are automatic now. In passenger service of course they arrived I imagine sometime around 1945, the passenger equipment. Men from the factory would ride these engines and instruct the fireman on what to do.

Q Did they instruct the fireman only when they were on those trains?

A No, they did not. The instructions for the fireman, of course, were different from those of the engineer. It was necessary to take the fireman back in

the units and show him exactly what he had to do and instruct him how to perform those duties. The engineer's duties of course were gone into and he was instructed right there.

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Q And what about patrolling the engine? Is that done on the New York Central?

A It is. In freight service there are no restrictions as to the fireman patrolling. In fact, it is his duty to patrol at certain intervals.

Q Well, when do you patrol? Is there a difference between your patrolling on a car body type diesel and the patrolling of a hooded type diesel?

A There is a difference on the car body type, of course. You can patrol any time it is safe to do so. On, as we call them, road switchers you have to go outside on the running board and it would be inadvisable to do that at high speed. It would be necessary to reduce speed in order to do it.

Q And are you expected to do it or is it just a habit from the middle forties -- at the present time, I mean?

A You mean on the road switcher type or both?

Q Deal with each separately, Mr. Tucker, if there is a difference.

A On the car body type we are expected to do it. It is our orders.

Q Yes?

A On the road switcher type I have never had orders to actually patrol on the running board of an engine but it is done.

Q You say you have had orders to patrol the car

body type unit. Are they used in passenger and freight or only in one of them?

A They are used in both, the majority.

Q And do you know whether firemen on your section of the New York Central have been disciplined for failure to patrol?

A They have.

Q Could you give the Commission one or two instances?

A In July -- I don't remember the date -- 1950 fireman John F. May on train 25 with two car body type diesels was assessed discipline of 30 days suspended sentence for failure to patrol and properly inspect the locomotives.

Q And that would be on a passenger train, would it?

A That would be on a passenger train.

Q No. 25 is a passenger train?

A No. 25 is the 20th Century Limited.

Q And do you remember discipline assessed against a fireman called Duckwall?

A Yes, I think in 1953 fireman Duckwall was assessed a suspended sentence of five days for delay to train No. 232 at Rolling Prairie, Indiana, for failure to properly perform his duties in connection with an overspeed trip.

Q What was the problem there, do you know?

A The engines in this case were Alco road engines, passenger, and this fireman was not familiar with the appurtenances on the Alco

road diesel and did not know where the reset button was. On this particular type it was an electrical appliance and he did not know where it was so he had a delay.

Q Now, that takes me, Mr. Tucker, to ask you to describe to the Commission some of the things which the fireman is expected to do and does to assist the engine over the road. If I may help, we have first of all, as you know, a number of safety devices on the diesels?

A Well, first and foremost I would say would be the resetting of ground relay trips which is not an uncommon occurrence, and second --

Q Can you reset them indefinitely or is there a limit as to the number of times you can do it?

A We have been instructed that if there are three ground relay trips on any one engine it must not be reset after that except in an emergency. The engine should be taken from the line and remain off the line.

Q By the way, do you run just one unit or in multiple units?

A We run in multiple units in passenger and freight service.

Q Well, in freight how many units would you run over your part of the New York Central?

A In freight it would be anywhere from one to five units.

Q And these ground relays occur, of course,

in any one of the units in a multiple unit?

A Any one of them.

Q That is one, the ground relay. What about any of the other safety alarms?

A Overspeed trip which is not a common occurrence but it does occur occasionally and that must be reset in the engineroom of the unit.

Q If that occurs on the road in a hooded type unit do you or do you not have walkways in between the units, platforms, that enable you to go from one unit to the other?

A They do on certain engines have a walkway between them but some they don't. It is according to how they are connected.

Q Then, if you get an overspeed trip or, for that matter, a ground relay in a trailing unit and there is no walkway, what happens?

A Well, you would decrease the speed until it was safe for the fireman, or as safe as it could be, for the fireman to go from one unit to the other in order to reset that protective device.

Q Have you had any experience with what we have called a hot engine, the overheating of the engine?

A Yes, I have had considerable experience with that on trains of very high tonnage, long trains, passenger and freight trains, of course. The engines are prone in warm

weather to overheat. The reason I don't know but it is necessary to, if the engine becomes exceedingly hot, to take it off the line until it cools down and then you can put it back on again. Of course, if there is trouble with the cooling devices, the fan or something, it must be necessary to adjust those to cool the engine down.

Q Just so that the Commission has the details, you told us that in the earlier days you had manual fans and shutters and that you do not have ^{them} any more on any of your units?

A That is right.

Q If they are not manual fans or shutters, what can you do in the case of a General Motors EMD unit? Let us start with that.

A In that particular type of engine there is an electropneumatic valve that operates a mechanism to permit the air to open the shutters and close them and this valve is equipped with a cap of large diameter, and the method we use is to remove this cap and take a wooden plug from the end of a fusee and put it in on top of the actuating valve and screw the cap back down and that holds the shutters in open position.

Q And is this sort of your own device or have you received instructions to do it?

A It has not been a definite instruction but my first knowledge of this particular operation was obtained from a road foreman showing me how to do it.

Q Suppose instead of a General Motors unit you had an Alco unit. You have Alcos as well?

A We do have some.

Q What would you do on an Alco unit with regard to a hot engine or overheating, if anything?

A If on the Alco unit the fan propeller shaft was turning, which you can see, and it was not turning fast enough, there is an appliance on a panel that you would break the seal on and adjust it manually. There is an indicator to tell you what speed it will be running at and also you can see and increase the speed to cool the engine down.

Q If this gadget is under seal, Mr. Tucker, do your firemen feel free to break the seal and go at this gadget or switch or whatever it is?

A Definitely. We have been instructed that we could do that.

Q Have there been any bulletins or instructions to say that firemen are not to handle these various delicate mechanisms on the diesel, that they are not to tinker with them or anything like that?

A There have been instructions to not do

anything with certain electrical relays in the panels or in the high voltage cabinets. We are not permitted to adjust those.

Q To go into the high voltage cabinet?

A That is correct.

Q What about the low voltage cabinet? I understand there is one of those.

A There is and we are permitted to make certain adjustments there.

Q Now, have you had any experience doing anything with regard to the filters, the fuel filters or fuel lines and filters?

A Yes, we have. That is a common defect on our type of diesels. The filters become clogged with dirt, residue, and the engine is not receiving the proper amount of fuel oil and is not loading. The indicator will show they are not performing the maximum effort and the fireman will -- on certain types that we have there is a lever that has three positions. Turned one way it opens the filter on that one and turned to the opposite direction it opens that filter, and put into the middle position it lets the oil run through both filters, and in that way you can obtain the proper amount of fuel to the engine, but certain engines are not equipped with that.

Q Well, which engines would be equipped with that? Would they be the newer or the

older?

A The older models would have ~~that~~ type of equipment. The newer ones are not equipped that way. They have a sight glass, two sight glasses in fact and you can look at those and see if there is air bubbles and if there is a great amount of air bubbles coming through the engine is not receiving the proper amount of fuel. They do not carry extra filters on the engine. The filter has a cap with a set of handles on it. You remove the cap, take the filter out and proceed to the terminal without the filter in that particular engine.

Q Have you had experience of doing that on these newer model engines?

A On several occasions, yes.

Q And do you do that on your own or have there been verbal or other instructions authorizing you to do it?

A That is by verbal instruction.

Q From whom?

A From the road foreman.

Q Have you had any experience with low lube alarms, one other of the basic safety devices?

A Yes, on occasion, and it happens quite occasionally but particularly in an engine that has been run a considerable number of miles and the oil is diluted to such an extent that it is very weak and the pressure

is not near as great that is in these control devices as determined by the amount of pressure, lube oil pressure that is in the line. If it drops below a minimum the controlling device on the Woodward governor will shut the engine down and there is a button that is pushed out indicating that is what happened. It is necessary to reset that button, start your engine, and if you are fortunate you get around to the manual lay shaft lever in time to keep it from dying again, and if it continues to die then it is your duty to shut the engine down and not attempt to use it.

THE CHAIRMAN: I am afraid we seem to be getting into the field where the engineer does things. I thought we were starting out with what the fireman did. Evidently we are crossing back and forth and I am lost.

MR. LEWIS: I am sorry. I did not intend that. I think perhaps one question will clear it up.

THE CHAIRMAN: In this last incident, surely it must have been done by the engineer. He is the one that starts the engine up.

BY MR. LEWIS:

Q This low lube alarm, the one that you were telling us about, would that have been done by the engineer or the fireman?

A No, it is done by the fireman. The engine

is started back in the unit.

Q When you said "start up the engine" were you referring to the locomotive as a whole or to one unit in the locomotive that had died down?

A Each individual engine, not the locomotive, the engine fuel oil.

Q And in this case that you were discussing had the locomotive stopped? Had the locomotive stopped because one of the engines had died down, or what had happened?

A No, the locomotive had not stopped. The locomotive would not stop unless there was occasion to. With a two-unit job you would have three other engines to keep on going.

Q So that what you were telling the Commission was an incident where you reset this low lube in a trailing unit or in the lead unit while the locomotive was going?

A It could be in either unit.

Q It could be in either unit?

A That is right.

Q As to all of these things we have just discussed, from the ground relay to the overspeed and overheating and the filters and the low lube alarm, were you describing -- I am sorry I did not make that clear -- work that was done in your experience by the fireman or by the engineer?

A It was all done by the fireman.

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Q Have you as a fireman had experience with wheel slip indications?

A Yes.

Q Would you please briefly describe that.

A The engines are equipped with a warning device when you have a wheel slip or a wheel slide. It is a light that lights and in the particular instance of the New York Central the engines are also equipped with a wheel slip and wheel slide control device which will automatically shut the power off in the case of a wheel slide or a very bad wheel slip. This device is located in the back of the unit in the engine room and if this becomes tripped it is necessary to go back and reset it before you can obtain power.

Q Now, these various defects that occasionally occur that we have discussed, Mr. Tucker, do they happen very seldom or do some of them happen seldom and some of them more often?

A Some of them are quite common and some of them are not so common.

Q What are the more common ones in your experience?

A Ground relays. That is a very common occurrence and over-heating engines is a very common occurrence, particularly in summer time. Wheel slip is a very common occurrence in bad weather. The others are not so common --

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low lube alarm and overspeed trips.

Q And from your experience are they just as common or more common in older units than they are in new ones?

A They are more common in the older units with large numbers of miles on them before overhaul.

Q I want to turn now, Mr.Tucker, to another subject. You will recall I asked you to look into records and bring to this Commission a few examples of engineers who have had some physical difficulty as they were operating their engines as they worked on duty. You have obtained some of that information, have you?

A I did, yes sir.

Q Will you tell the Commission the incident of an engineer which occurred on April 21, 1956 involving fireman Neilson?

A These, of course, are records that are obtained from the general grievance committee files and this is not from my personal knowledge of these incidents.

Q Yes?

A It was on the Utah Railroad.

MR. SINCLAIR: I wonder what he means by that?

MR. LEWIS: Just what he said; he was not there when these things happened. He took them from the records of the general grievance committee.

BY MR. SINCLAIR:

Q I was just wondering -- was there a grievance

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arising out of them, is that what he means?

A No, there was no grievance.

MR. SINCLAIR: May I proceed?

MR. LEWIS: Surely.

BY MR. SINCLAIR:

Q Any time there is one of these occurrences there is an arrangement to have it reported to the firemen's union, is that it?

A It is reported. We receive a copy from the Grand Lodge files to the general grievance committees in the different districts.

MR. SINCLAIR: These are not grievance cases.

MR. LEWIS: No, they are not necessarily grievance cases but just records of the union, just as my friend files a list of incidents to engineers on the Canadian Pacific Railway from the records of that company.

MR. SINCLAIR: I am sorry; I misunderstood just what was happening.

MR. LEWIS: I asked Mr. Tucker to make clear they are from the records and not from any personal knowledge so the Commission would know what their source is.

MR. SINCLAIR: He said from the grievance committee files.

MR. LEWIS: They are from the records of the grievance committee which is a subcommittee in that part of the Brotherhood and which obtains copies of these files and these records from the Grand Lodge. In other words, they are from the

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records of the Brotherhood.

I may say, Mr.Chairman, that Mr.Tucker told me that it is another question as to whether or not these records are complete. He does not know whether they have word of everything that has happened but they are taken from the records of the Brotherhood and concern incidents that have been reported as having occurred.

BY MR. LEWIS:

Q All right, Mr. Tucker, you started to describe an incident on the Utah Railway?

A The engine, the train was proceeding at 52 miles per hour with a very heavy tonnage train and the engineer, as I understand it --

Q I am sorry to interrupt, but what kind of train was this, passenger or freight?

A A freight train -- a very heavy tonnage freight train. The engineer, as I understand it, was diabetic and became ill and could not operate the controls, was just practically paralyzed to an extent, so the fireman removed him from the seat and took over the braking of the train and the information I have is that he reduced the brake pipe pressure 20 pounds and held it for three miles. It was necessary to do this to reduce the speed seven miles per hour. That is all it was reduced -- to 45 miles per hour, the grade was so heavy. And the fireman handled this train for 10 miles with the engineer lying on the floor to get the train to a

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terminal where he could get some assistance -- not to a terminal but rather to a point where there was some assistance. This road -- this portion of the railroad -- was through country where there were all grade crossings.

Q Grade crossings?

A Road crossings.

Q Level road crossings?

A Yes.

Q And this happened -- I think I gave you the date on April 21, 1956?

A That is correct.

Q Yes. Would you tell the Commission next about an incident in your records involving engineer E.W.Currie?

A This incident occurred on July 5, 1954, on train No.14, the C.B.&.Q Railroad. It was proceeding at 70 miles per hour when the engineer died, I assume --

Q And I am sorry; go ahead?

A I assume from a heart attack.

Q This was a passenger train?

A Yes. The fireman took over the controls and stopped the train. In this particular instance the engine was equipped with a deadman control but when he died the engineer slumped over and his foot was still on the deadman control so it did not operate.

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Q And what was the fireman's name just so the details are on the record for checking?

A The fireman's name was T.F.Jones.

Q Would you tell the Commission, please, about an incident involving engineer A.Brandshaw at Gary, Indiana?

A This particular incident took place on February 10, 1953 at Gary, Indiana, on the E.J.&E., that is the Elgin, Joliet and Eastern Railroad -- which is a switching railroad. They have no passenger trains.

The engineer died at the controls and fireman Richard Keehn took over the controls and stopped the train and in this particular area through which this railroad operates it is very congested. It is on the outskirts of Chicago -- the southern outskirts -- and it goes around Chicago.

Q Now, would you next describe what you know about an incident that happened to engineer J.R. Williamson?

A This engineer J.R.Williamson -- I do not have the date this occurred -- but it was sometime in 1955 or 1956. I think it was in 1956. He was the engineer on the Dixieland, L.&N. -- the Louisville and Nashville train -- approaching Nashville, Tennessee.

Q Is that a passenger or freight train?

A A passenger train.

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Q Yes?

A He dropped dead and fireman W.B.Coombs took over the controls and stopped the train before arriving in Nashville.

Q And next you were telling me, Mr.Tucker, about an incident that occurred in a yard in February, 1956 at El Paso, Texas?

A In this particular case it was the Texas and New Orleans yard job at El Paso, Texas on February 12, 1956. Yardman Bosfield was working on job 303. They were switching on one lead and job 308 was switching on another lead adjacent to this one and the ^{train on} /job 308 struck yard brakeman Bosfield and knocked him into the side of the train on job 303 and that of course was on the fireman's side and the fireman called to the engineer to stop the train or stop the switching movement which he done. The brakeman was injured but his life was saved.

Q And next will you tell the Commission something of what happened to engineer M.J. Pittage at Denver, Colorado?

A This incident took place on January 23, 1956, at Denver, Colorado in yard service. Engineer Pittage died at the controls and fireman Daniels took over and stopped the train and obtained relief.

Q And what?

A And obtained relief.

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MR. SINCLAIR: Passenger?

MR. LEWIS: This was a yard engine.

BY MR. LEWIS:

Q Then, there was the incident you mentioned to me involving W.N. Esser?

A Yes. This incident occurred near Oakland, California. The engineer, W.N. Esser, dropped dead and the fireman, Robert Proctor, stopped the train. This occurred on September 22, 1954.

Q What kind of train was this?

A This was a freight train.

Q Yes?

A And the coincidence in this particular case was that on July 20, 1930, this engineer Esser, in this case in time was a fireman, and the engineer A.P. Debock dropped dead and Fireman Esser stopped the train at Pinole, California.

THE CHAIRMAN: That was steam?

BY MR. LEWIS:

Q The one in 1930?

A Steam.

Q Mr. Tucker, those are incidents which I asked you to look up and I also recall I asked you to bring to the Commission's attention fairly recent ones. With them in mind, is it your experience or is it not the experience that the fireman relieving the engineer or having to take

hold of the controls, take over control, is limited to incidents of the sort when the engineer has collapsed or died, or are there other occasions?

A Well, in my experience, the occasions where the engineer becomes physically ill or something of that nature and asks the fireman if he will take over the controls until he can adjust himself or until the illness passes away. In that case the fireman does take over if he has had plenty of experience.

Then, in my own personal experience, I know of cases where it was necessary for me, for physical reasons, to leave the cab and go to the toilet which is located in the back end of the diesel. I would ask the fireman to take over the controls and relieve me until this was done.

Q This may be a common thing, Mr. Tucker, but I think it is of some importance. Suppose you had to go to the washroom or the toilet, as you said, and your fireman was not there, what would you have to do?

A It would be necessary to stop the train, call out the flag, go and perform what duties were necessary and return, call in the flag, and proceed.

Q In your experience do many or most or only a few of the firemen have the qualifications,

have gone through the examinations, to take over control in cases of either extreme emergency or more common emergency?

A Well, today the seniority list of firemen -- well, they have a great number with many years' experience, particularly in road service. If a fireman hires out new, he is assigned to yard service and not put in road service immediately. He works in the yard for a period of time until he gains experience. Anyone who has the seniority to hold a road job has enough experience to operate an engine.

Q Following your discussion of these incidents and the things that, in your experience, have happened and may happen, would you give the Commission your opinion as to the possibility of running an engine and a train without someone on the engine to take over the controls or to assist the engineer beside him?

A Well, I would be reluctant to operate an engine without knowing that there was a competent person to assist me on the left side. It is too dangerous. There are many things that can happen, as have been described previously here, that the person on the left side of the cab may see and warn the engineer that the engineer himself could not see from the right side of the

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cab.

I just would not want to operate an engine without someone over there to warn me of these things.

Q You say -- I am examining you and not cross-examining, but I think we have to explore these things -- you say you would hesitate to run an engine without someone on the left side, but in freight service on the New York Central do you not have one of the train crew in the cab?

A We do in freight service, but this brakeman is not trained in the manipulation of the controls of a locomotive and at the high speeds that are operated today, I would say that I would not want him to be stopping a train of say 100 cars or more travelling at 60 miles per hour, because I do not think he would have the experience or the knowledge how to do it.

Q Well, do your freight trains often travel at as high as 60 miles per hour with 100 cars, and travel at as high as 60 miles per hour?

A They do; that is the track speed, 60 miles per hour. One hundred cars, in that instance you would more than likely have three units, because we handle a great percentage of perishables, particularly from west to east, and those trains are given

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the right of way.

Q Would it or would it not be possible to train one of the brakemen to handle the brake valve in emergency?

A It would be possible, I imagine, but it would take a great long time to do it. You see, a fireman, under the rules, is not permitted to handle an engine or a train until he has had sufficient experience and has been examined. There is no examination until you have had three years' experience, and probably much longer than that.

Q In the case of firemen?

A In the case of firemen, and in my own particular instance I was not examined for thirteen years.

Q Let us explore that for a moment longer because that would involve actually running a train. Is it, in your opinion, possible or not possible to teach one of the brakemen to set the brake valve in an emergency such as an engineer keeling over for illness, because of illness, or something like that? Could you not do that, and in that case would you need a fireman on the left side?

A The fireman would have the knowledge of the method of reducing the brake pipe pressure sufficiently to ensure a normal stop. I doubt seriously whether a

brakeman, unless he had a good many years' experience handling an engine, would be able to do that. It would be dangerous for the crew riding in the caboose to have someone without that knowledge attempting to make the stop.

Q Mr. Tucker, are you given, firemen and engineers on the New York Central, are they given any special instructions with regard to the air brake system?

A They are. They have instructions on air brakes for all three examinations, the first, second and third year examinations.

Q And is the handling of the air brake system a major or an indifferent part of the training which firemen and engineers receive?

A It is a most important part of the training.

Q Do you or do you not have special air brake instruction manuals issued by the New York Central Railway?

A We do. We also have a special examination when we go from freight to passenger. It is necessary to pass another examination in order to handle passenger equipment.

BY THE CHAIRMAN:

Q May I ask a question at this point arising out of that. Mr. Tucker, when the dead-man control operates, what happens? Supposing you had a freight train moving

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D.W. Tucker

along over the road at a good clip?

A Well, Mr. Chairman, may I say that on the New York Central the deadman control has been removed. We do not have any engines equipped with that, but on a railroad where they do have, if the deadman control lever is a foot pedal that must be depressed at all times, and if it is permitted to raise, the automatic brake valve will go into a service position and stop the train.

Q Well, then, why do you need the brakeman or fireman to stop the train in such a situation, where it should be stopped, and the engineer cannot stop it?

A You mean with an engine equipped with deadman control?

Q Yes?

A Well, as I say, on our road they took the deadman control levers off.

Q I am not talking about that, I am talking about where there is one?

A In certain instances the deadman control lever did not function because of the fact that the engineer had fallen on it.

Q I was putting to you a case where it does operate?

A Where it does operate you would not need anyone to stop the train. It would stop itself then.

Q Then, if you have an engine equipped with

D-8

D.W. Tucker

a deadman control, and putting aside those cases where the engineer's foot is not removed for some reason, I am not sure I understand your evidence as to why you have to worry about somebody having had several years' experience in controlling the speed of the train or bringing it to a stop?

A Well, of course, if this deadman lever does function, it does not make a normal stop. When this deadman's lever functions it continues to take air from the brake valve until it is stopped. It does not make a normal brake application.

Q Does any harm result from that?

A There could be a break in two caused by this excess brake pipe reduction in long trains, and it could cause a break in two of the train.

Q Do you know of such cases?

A Pardon me?

Q Have you known of such cases?

A No, I have not known of where the deadman's lever operated with a heavy train.

Q The New York Central has removed from all its engines the deadman control?

A It has, two years ago.

Q Passenger service, freight service and yard service?

A All services.

BY HON. MR. McLAURIN:

Q I think I saw a diesel somewhere where

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D.W. Tucker

there was a brake control near the seat for the fireman or the brakeman, and you could just pull it?

A All of the engines on the New York Central are equipped with an emergency brake somewhere in the cab.

Q And it operates just like the deadman control emergency?

A This particular one I have in mind does not. It is a valve that you pull the handle out and it puts the train in emergency.

Q Could I do it?

A Anyone could do it; it operates in emergency only.

Q It would be very simple if I could do it?

A But that feature is for emergency application only.

BY THE CHAIRMAN:

Q I suppose the deadman control is an emergency application?

A No, the deadman control is just simply a service reduction, but it is a continuous service reduction.

MR. LEWIS: Those are all the questions I have, Mr. Chairman.

Feather
ZA

E-1

D. W. TUCKER, recalled.

EXAMINED BY MR. SINCLAIR:

Q Mr. Tucker, are you one of those
enginemen who pride themselves upon
being air-brake, shall I call it
experts?

A No, I am not.

Q For instance, you said a train might
pull apart if there was an emergency
application at the head end, but you
said you had never heard of that?

A May I modify that statement? I assume
you are speaking of the deadman control.

Q I will put it to you this way. When
you are pulling a train your slack is
all in, pulling at 60 miles an hour,
a freight train?

A When you are pulling a train?

Q Yes, at 60 miles an hour, your slack
would be in?

A Your slack would all be out.

Q If you had an emergency application
with your slack out do you think you
would get a pull-apart?

A Not if the train was stretched com-
pletely; I don't think so. It is pos-
sible, but I don't think so.

Q Now, on the New York Central are the
head-end brakemen instructed in applying
the emergency brakes and using the

L-2

D.W. Tucker

engineman's brake valve, the automatic train brake?

A They are not.

Q Did you know they were on the Canadian Pacific?

A No, I did not know that.

Q And that if an emergency occurs on the New York Central --

MR. LEWIS: Is my learned friend suggesting through his question that head-end brakemen on the Canadian Pacific have in the past been so instructed?

MR. SINCLAIR: Just a minute, Mr. Lewis.

BY MR. SINCLAIR:

Q What I am saying is that on the Canadian Pacific the head-end brakeman knows how to use the automatic train brake and put it in emergency position, and if he does not know he would receive instructions on it. Indeed he is expected to do it if an emergency arises. Is that not so on the New York Central?

A I imagine if he was the only one there he would be expected to place the brake in emergency.

BY THE CHAIRMAN:

Q No, you are being asked about the present situation on the New York Central.

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D.W. Tucker

A The present situation, no, the fireman would do it now.

BY MR. SINCLAIR:

Q What if the fireman was back in the third unit patrolling on his walk and an emergency situation arose?

A Then the brakeman could place the brake in emergency, I imagine.

Q Now, with regard to this patrolling, Mr. Tucker, you say on the New York Central the firemen patrol?

A They do.

--

Q All types, all trains except where the watching rule applies? I take that to be what your answer meant?

A They do.

Q Now, that takes time, does it not, to go back and go through the units?

A It does.

Q I have read that patrolling units takes the fireman out of the cab from 50 to 85 per cent of the time. That, I think, was the finding of the emergency board in 1943. From 50 to 85 per cent of the time the fireman was out of the cab. Do you remember that?

A No, I don't.

Q "While there is considerable conflict in the evidence as to the amount of time a fireman is away from the cab patrolling the engine, it apparently ranges from about half to 85 per cent of the time depending on the number of units involved and the practice of the particular road."

THE CHAIRMAN: That is the emergency board finding to which you have just referred?

MR. SINCLAIR: That is right, 1943.

MR. LEWIS: What page is that?

MR. SINCLAIR: That is at page 50 of the report.

BY MR. SINCLAIR:

Q From your experience would that be about

right?

A No, it would not.

Q Between 50 and 85 per cent?

A No, it would not.

BY THE CHAIRMAN:

Q Has it changed since 1943?

A No, basically the patrolling has not changed but I think this report probably refers to when there is trouble in the engineroom.

BY MR. SINCLAIR:

Q Have you read the report?

A It is very faint in my mind. It is a long time since I read it.

Q That was just a guess on your part that it referred to when there was trouble?

A That is right. I am assuming from the amount of time they say the fireman is away that there is something wrong.

Q This is when the firemen were saying that they needed an extra man to be in the engineroom because the fireman was back there most of the time. Do you recall those proceedings?

A I was not at those proceedings.

THE CHAIRMAN: Not that the firemen were saying they needed an extra man but that the engineers were saying they needed an extra man.

MR. SINCLAIR: And the firemen also. They were joint in that.

BY MR. SINCLAIR:

Q Today when you are on a passenger train and the fireman goes back to patrol on a non-watching rule train what do you do, slow down?

A On passenger?

Q Yes?

A No, you do not.

Q So then you operate it yourself up in the control cab?

A The engineer does, yes.

Q Have you ever operated one of these locomotives under 90,000 pounds weight on drivers?

A No, I have not.

Q You will recall that the firemen's union, the Brotherhood, of which you are a local chairman -- we refer to the firemen's union as the generic term -- again in 1943 said that the operation of these under 90,000 pound switchers was unsafe because it did not protect people and the same kind of reasons that you have given in yard operation. Do you recall that part of the proceedings?

A I do.

Q And do you recall the finding of the emergency board on that point?

A Not offhand I do not recall the words of the finding.

THE CHAIRMAN: Is it the same report?

MR. SINCLAIR: Yes, sir. At page 56 of the report here is their final finding on that

matter:

"The locomotives coming under the exception of the diesel agreement of 1937 are used primarily in yard work or in local road work. No convincing evidence was presented to indicate that failure to use a fireman in these operations constitutes any undue hazard or that it has resulted in otherwise preventable accidents. Under the circumstances the board sees no reason why the diesel agreement of 1937 should be modified in this respect. The board therefore recommends that the proposal of the firemen be denied."

Q Do you remember that finding?

A Yes.

Q Now, one of these specific engineers that you referred to was a diabetic?

A I think that is what it was. It was an illness.

Q You read it from your note, Mr. Tucker?

A Yes.

Q So your note would be right, would it not?

A Well, I am going strictly by what the record indicated. I couldn't say for sure that someone else didn't make an error in what the illness was.

BY THE CHAIRMAN:

Q Well, all you know about it is, as you said,

what your report said?

A What my report said, that it was a diabetic, yes.

BY MR. SINCLAIR:

Q Did your report say whether the man suffered an insulin reaction?

A No, it did not.

Q The whole matter of having enginemen who are under insulin treatment on moving equipment is an active matter, is it not, to your knowledge?

A Pardon me, I didn't get that.

Q I am sorry. The whole question, Mr. Tucker, of whether men in engine service who are under insulin treatment for diabetes should be allowed to continue in that movement is a matter that is under active consideration in the United States, is it not?

A Well, I have no knowledge. It might be.

Q And the A.A.R. medical section has recommended that no person who is a diabetic and taking insulin to control the disease, that is, other than just bare diet, should be allowed to continue as an engineer. Did you know that?

A No, I did not.

HON. MR. McLAURIN: That is the --

MR. SINCLAIR: Association of American Railways, Medical Section.

HON. MR. McLAURIN: What was the alphabet you gave us?

MR. SINCLAIR: A.A.R.

BY MR. SINCLAIR:

Q Would you think that any person with diabetes who was subject to insulin reaction should be allowed to continue in engine service, Mr. Tucker?

A I would not be able to venture an opinion on that, Mr. Sinclair.

Q On the New York Central do they follow the practice if a man is subject to illnesses, heart conditions, matters of that kind, of restricting them to road service?

A Restricting them to road service? No, they do not.

Q Where do they restrict them to?

A In certain instances they are restricted to yard service.

Q And when they operate in road service on certain railroads it is subject to another man being with them all the time. Isn't that so?

A I don't know about that.

Q Have you studied the files of your Brotherhood with respect to that matter?

A With respect to the requirement that another man be on the engine?

Q If they are subject to heart attacks or some of these other conditions?

A I have no knowledge of that rule.

Q Practice?

A Or practice.

Q On the New York Central are all enginemen subject to periodic medical examinations?

A They are.

Q And these cases that you have given us --

BY THE CHAIRMAN:

Q At what periods, Mr. Tucker?

A Depending upon age, it is some three years, some two, some one and some six months.

Q I suppose the older one gets the oftener one has to be examined. Is that it?

A That is correct.

BY MR. SINCLAIR:

Q And with respect to these cases that you mentioned here of enginemen who suffered seizures of one kind or another, did you have on your note the age of the man?

A No, I did not.

BY THE CHAIRMAN:

Q How old are you, Mr. Tucker?

A Fifty-seven.

Q How often do you have to be medically examined?

A Two years. Of course, it depends upon your physical condition too.

BY MR. SINCLAIR:

Q You mean that you are in good physical condition and you are examined every two years. Is that your evidence?

A That evidently is the case because I am required to go only every two years.

Q What is the oldest engineman that you have ever run with on the New York Central, Mr. Tucker?

A Sixty-seven years old.

1. The first part of the report is a general introduction to the subject.

2. The second part is a detailed description of the methods used.

3. The third part is a discussion of the results obtained.

4. The fourth part is a conclusion and a summary of the findings.

5. The fifth part is a list of references and a bibliography.

6. The sixth part is an appendix containing additional data and figures.

7. The seventh part is a list of symbols and abbreviations used.

8. The eighth part is a list of tables and figures.

9. The ninth part is a list of footnotes and references.

10. The tenth part is a list of appendices and a bibliography.

11. The eleventh part is a list of symbols and abbreviations used.

12. The twelfth part is a list of tables and figures.

13. The thirteenth part is a list of footnotes and references.

14. The fourteenth part is a list of appendices and a bibliography.

15. The fifteenth part is a list of symbols and abbreviations used.

16. The sixteenth part is a list of tables and figures.

17. The seventeenth part is a list of footnotes and references.

18. The eighteenth part is a list of appendices and a bibliography.

19. The nineteenth part is a list of symbols and abbreviations used.

20. The twentieth part is a list of tables and figures.

21. The twenty-first part is a list of footnotes and references.

22. The twenty-second part is a list of appendices and a bibliography.

23. The twenty-third part is a list of symbols and abbreviations used.

24. The twenty-fourth part is a list of tables and figures.

25. The twenty-fifth part is a list of footnotes and references.

26. The twenty-sixth part is a list of appendices and a bibliography.

27. The twenty-seventh part is a list of symbols and abbreviations used.

28. The twenty-eighth part is a list of tables and figures.

29. The twenty-ninth part is a list of footnotes and references.

Q They do run up to 70 on the New York Central, we were told by another witness?

A They are permitted to now.

Q And from your Brotherhood activities do you know if any other railroads are allowed to run them to an older age than that?

A There are some.

Q Up to what age?

A Some railroads do not have any age limit.

Q Some of them allow them to run as long as they can climb up on the engine? Has that not been your experience?

A That has been my information.

Q You have heard of cases of enginemen being over 80 years of age, have you not?

A I have read of them.

HON. MR. McLAURIN: That must have been Casey Jones.

MR. SINCLAIR: Well, I don't know. He was down south.

BY MR. SINCLAIR

Q But other than in the south, Mr. Tucker --

A The one I have reference to is in the west.

Q I thought so. Have you ever had any trouble with firemen on the New York Central blocking the lay shafts? You mentioned the lay shafts.

A Blocking the lay shafts -- I have no knowledge personally of it being done although I have heard that it has been done.

Q That is "monkeyitis", is it not?

A Pardon me?

Q That could be described as "monkeyitis" or "tinkeritis"?

A In some cases I think it would be necessary.

Q Are there any instructions on the New York Central that you are not to block the lay shafts?

A No, there is not to my knowledge.

Q And you think that is a proper procedure?

A In certain instances I think it could be beneficial.

Q But it does prevent the governor from properly controlling the situation, does it not?

A That is correct.

Q It is done on the New York Central?

A Sometimes. I will say that the governor can function with the low lube regardless of the position of the lay shaft lever.

Q To go back to brakes for a moment, Mr. Tucker, do the vans, the cabooses on the New York Central have a conductor's valve in them?

A They do.

Q Have you ever been on a train when the conductor has pulled the air on you?

A Yes, sir, I have.

Q That is not an unusual occurrence on the New York Central, to have the conductor use his valve, is it?

A He does not do it unless it is absolutely necessary.

Q I said it is not an unusual occurrence?

A No.

D.W.Tucker

BY THE CHAIRMAN:

Q Would there be any difference in the effect of that and the effect of pulling the emergency cord or valve or whatever it is in the cab of the engine?

A It would depend upon how much air the conductor desired to draw off the train and with his conductor's valve he can draw off certain amounts of air.

BY MR. SINCLAIR:

Q Are you sure about the instructions concerning the use of the conductor's valve and what he does?

A I am not familiar with the instruction the conductors receive on the operation of their valve.

Q He is supposed to open it right out, is he not?

A I do not know.

Q Once he opens it right out it operates or rather dumps the air line exactly like an emergency?

A It is in emergency if he dumps it.

BY THE CHAIRMAN:

Q I understood you to say that he would do it only in the case of an emergency?

A That is correct.

THE CHAIRMAN: Then, I do not follow the distinction that you are making, Mr.Tucker.

BY MR.SINCLAIR:

Q Perhaps I could help, sir.

D.W.Tucker

I think Mr.Tucker is suggesting that the conductor might play with it a little bit and take off only 10 pounds instead of dumping the air and giving it an emergency; is that what you had in mind, Mr.Tucker?

A I did not have in mind that he would play with it. My thought was that if he did not desire an emergency application of the brake he therefore might take off less than that amount and stop the train as near normal as possible.

Q But that is when you get into trouble and break the train in two, is it not?
If you want to break the train in two first you take ten from the rear and then another five and --

A Oh no.

Q You do not think that would break a train in two?

A In certain circumstances it possibly could. It depends on the condition of your train -- the slack action -- when this application was made.

BY THE CHAIRMAN:

Q The only thing I did not follow, Mr.Tucker, is this and I am trying to follow you closely. I understood you to say the conductor would only use his valve in the case of an emergency and knowing very little about this I would assume that he would apply ⁱⁿ full, and I do not

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quite understand your reference to cases where he might not apply in full?

A There might be an occasion when this conductor would desire to make a stop other than a regular stop.

BY MR. SINCLAIR:

Q Other than an emergency stop?

A Yes, other than an emergency stop.

BY THE CHAIRMAN:

Q But I thought you said the only instance was in the case of an emergency?

A Oh no, not necessarily.

BY MR. SINCLAIR:

Q Your evidence then is that if he wanted to slow down and not stop he might then make a partial application rather than dump all the air?

A I do not think Mr. Sinclair, he would dump to slow a train down. If he used the air it would be for the purpose of stopping.

Q If he wanted to just make a stop that the engineer didn't know about?

A That is correct.

Q Then he would make a gradual reduction with the conductor's valve?

A That is right.

THE CHAIRMAN: Now I understand it.

BY MR. SINCLAIR:

Q On the New York Central are they given many

D.W.Tucker

years of experience -- conductors -- as to how to operate the conductor's valve?

A I do not know. I have never -- I should not say "never" -- but my experience in cabooses has been limited.

Q But if they were getting many years of experience in the handling of the conductor's valve on a freight train you would have known about it?

I mean, of course, on the New York Central?

A Do you mean the conductor's valve in the caboose?

A It is a conductor's valve whether it operates from the front end or the tail end?

A I would know that they did not have very much experience operating the brake valve on the engine but I would not know about the rest.

Q Turning now to the question of a watching rule train --

THE CHAIRMAN: That is the rule that says the engineer must not leave his seat in the cab?

MR. SINCLAIR: Fireman.

THE CHAIRMAN: Yes, I am sorry; the fireman.

BY MR. SINCLAIR:

Q On a watching rule train, how do you patrol them?

A You do not patrol.

Q Do you feel unsafe when you are not patrolling?

A Feel unsafe?

Q Do you feel unsafe?

D.W.Tucker

A No, I do not.

BY THE CHAIRMAN:

Q Well, if an alarm goes off under such circumstances then what happens?

A If an alarm goes off and you do not know what it is it is up to the engineer as to whether he wants to stop and find out what the trouble is or whether he wants to continue to the next terminal.

Q And if he wants to find out what the trouble is he has to stop and go and see himself?

A No, the fireman would go and see.

Q The fireman would go and see after the train stopped?

A Yes, after the train stopped.

BY MR. SINCLAIR:

Q The engineer could just as well then, too, could he not?

A He could, if he wanted to.

Q Yesterday you made some reference to the accident at Ripley, New York?

A Yes sir.

Q That occurred in February?

A Yes sir.

Q In March Mr. Lewis said that he talked to someone by telephone about this accident. Was it you' whom he contacted,

A No, it was not.

Q He did not get his information from you?

A No.

Q At Volume 7 of the transcript, page 828
Mr. Lewis when questioning Mr. Borntrager,
said this:

"Q. Yes. Then the fireman and the
engineer discussed it, did they?

A. That is as I understand it. The
fireman said, "I think the signal went
green just before we hit it".

Q. Are you sure about that?

I am not going to belabour this.

Are you sure that is what he said, or
is the fireman's statement to the effect
that the engineer and he concluded from
the fact there was no whistle that the
signal had gone green? "

Now, Mr. Lewis then went on to say that this
was the information he had got by telephone.

What would your comment be on that?

That is not the fact, is it, based on your
analysis of the record?

A My information obtained from the transcript
of the investigation held does not contain
that information.

Q Now, yesterday in your evidence you summarized
your recollection of what the I.C.C. found
and what took place in the proceedings. That
was a summary?

A You are speaking of Ripley?

Q Yes.

A Okay.

10.17.11

Dear Sir,

I have the pleasure to acknowledge the receipt of your letter of the 10th inst.

in relation to the above matter.

I am sorry that I cannot give you a more definite answer at this time.

As you will be aware, the matter is still under consideration.

I am sure that you will understand the need for this.

I will be glad to advise you again as soon as a final decision has been reached.

Yours faithfully,

[Signature]

[Name]

I am, Sir, very truly,
Your obedient servant,
[Signature]

D.W.Tucker

Q Your answer is "Yes"?

A Pardon me?

Q Your answer is "Yes", that you did summarize it from your recollecti~~on~~n of what was in the record and in the report of the Commission?

A That is right; very briefly.

Q Did you have available with you a copy of the Interstate Commerce Commission **report**?

A Do I have?

Q Well, did you have or do you have?

A I do, yes.

Q Well, would you mind producing it?

A No. I have it here now.

Q I think in certain parts of this it is necessary to be a little more precise than is perhaps possible in giving a recollection summary. I wonder if you would do this with me.

Would you turn ~~to~~ page 9 of the document which you have there?

A Yes sir.

Q I want to read just parts of this with you beginning with the first complete paragraph on page 9. It refers to number 74 -- is that a passenger train?

A That is right.

Q The first complete paragraph in page 9 reads:

"As No.74 was approaching the point where the accident occurred the engineer and the fireman were in the control compartment at the front of the

1914

My dear Sir,

I have the pleasure to acknowledge the receipt of your letter of the 11th inst. in relation to the matter of the purchase of the land for the proposed road. I am sorry that I cannot give you a more definite answer at this time, but the matter is being considered by the proper authorities.

I am, Sir, very respectfully,

Your obedient servant,

J. H. Smith
Secretary of the Board of Public Works
City of New York

Very truly yours,
J. H. Smith
Secretary of the Board of Public Works
City of New York

D.W.Tucker

locomotive. The members of the train crew were in the cars of the train.

Signal 672-E indicated proceed-preparing-to-stop-at-next-signal -- "

Now, that was a yellow indication?

A Next signal.

Q That is a yellow indication?

A Yes.

Q I continue reading:

"-- when it first became visible to the enginemen, and the indication was called by these employees. The engineer then made a service application of the brakes."

In other words, he is then bringing his train under control in accordance with the rules?

A In compliance with the rules.

Q Having seen a restrictive indication and knowing also that he had to take some further action on account of this being centralized traffic and their own stopping act; correct?

A In compliance with the rules.

Q I continue reading:

"From the fireman's position in the control compartment he could not see the acknowledging lever of the automatic train-stop equipment, but from the engineer's movements the fireman assumed that he had pulled the lever into forestalling position as the locomotive was closely approaching the signal."

D.W.Tucker

In other words, by that action the engineman is acknowledging the restrictive aspect of the signal; correct?

A That is correct.

Q I continue reading:

"The fireman testified that immediately before the front of the locomotive passed the signal the indication of the signal changed to proceed."

That is, it went to green?

A (-- the witness nods in the affirmative --)

THE CHAIRMAN: Does that mean that the fireman saw the signal?

MR. SINCLAIR: That is his evidence and I would ask the witness -- that is the fireman is saying he made a positive identification of the change in signal aspect from yellow to green?

THE WITNESS: That is right.

MR. SINCLAIR: That is what he said.

BY MR. SINCLAIR:

Q I continue reading:

"The forestalling whistle did not sound -- "

And if it had been green the forestalling whistle should have sounded; correct?

A No.

Q It should not have sounded?

A No, it should not have sounded.

Q If the signal had been yellow it would have

D.W.Tucker

sounded?

A That is correct.

BY THE CHAIRMAN:

Q That is, if it had not been out of order; that is, if it were in order? I think the witness attempted to say yesterday that it was broken.

A Well --

MR. SINCLAIR: That is right, sir.

THE WITNESS: Pardon me, but to clear a point, the signal was not out of order. The inductor of the automatic train stop was defective.

BY MR. SINCLAIR:

Q The inductor on the track; the coil?

A Yes.

Q I continue reading:

"The forestalling whistle did not sound as the locomotive passed the signal, and after passing the signal the engineer commented that the whistle had not sounded."

Is that correct?

A That is right.

Q In other words the engineer said to the fireman, "we did not get a whistle?" You would agree that he was expecting a whistle thinking that the signal indication was then yellow because that is the only time he would have expected a whistle?

A There are several indications that could

D.W.Tucker

cause a whistle.

Q Yes, but having seen the yellow aspect and just as he approached it and forestalled he was expecting a whistle because as he went under it he expected the signal to be restrictive -- that is yellow -- and that is why he was looking for the whistle, is it not?

A He would.

Q That is why he would be looking for the whistle?

A That is right.

Q The summary goes on to the next point and I quote:

"The fireman told him " -- that is, the engineer --" that the indication of the signal had changed to proceed as they were closely approaching and that this was the reason for the absence of a whistle."

Correct?

A Correct.

Q That is what the fireman said?

A Correct.

Q I continue reading:

"The engineer replied that he, too, thought the indication of the signal had changed, and he then released the brakes and increased the speed of the train."

A That is right.

Q You would agree with me from that analysis as set out by the Interstate Commerce Commission

D.W.Tucker

that the engineman, as he got the restrictive aspect on the signal -- the yellow light -- and no whistle, was wondering what happened and what caused him not to get a whistle, would you not?

A No, not from the evidence as stated here.

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bertson

D.W. Tucker

Q You do not think that is what that says?

A Because the engineer says he thought the indication had changed to proceed.

Q If he thought that, why did he ask the fireman why they did not get a whistle?

MR. LEWIS: It does not say he asked.

THE WITNESS: He did not ask the fireman.

MR. LEWIS: What my friend was reading showed he stated he did not get a whistle.

BY MR. SINCLAIR:

Q Why would he find it necessary to state he did not get a whistle?

A Because there would probably have been some doubt, there may have been.

Q Then, unless that doubt was eliminated, and eliminated positively, under the New York Central rules, you would have to be prepared to stop at the next signal, wouldn't you?

A Under the rules, if there is any doubt as to the functioning of automatic train stop, it would be necessary for him to reduce speed to 35 miles per hour.

Q He did not do that because the fireman told him that the indication of the signal had changed to proceed as they were closely approaching, and this was the reason for the absence of the whistle; you would

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D.W. Tucker

agree with that?

A No, I would not.

Q Well, Mr. Tucker, you also said yesterday --
I have my note here and I will refer it to
you accurately, I think --

THE CHAIRMAN: I suppose this all
comes down to an interpretation of this report
which we can make as well as the witness?

MR. SINCLAIR: That is right, sir,
except there is one other thing I just want to
clear up on the record before I leave this report,
and that is the portion of Mr. Tucker's evidence
in which he said, according to my note, that it
was not definite or it was not proven that the
signal system was functioning properly. At
page 6312 of the transcript -- I want to be fair
to Mr. Tucker on this matter because I think he
may want to amend this a little. He said to you,
sir:

"Q. Does that mean, Mr. Tucker, that
the signal they thought was green,
in fact had not been green?

A. That is right, evidently, although
it was never proved definitely
whether the signal actually was
green or was not green."

THE WITNESS: That is right.

BY MR. SINCLAIR:

Q I would refer you to page 12 of the document

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D.W. Tucker

you have in your hand. I just want to read one paragraph:

"The tests of the signal system after the accident had occurred disclosed no condition which would have caused improper operation of the signals, and from the results of these tests it appears that the signals were functioning properly at the time of the accident. Apparently the fireman of No. 74 was mistaken --"

I ask you particularly to note that the tests showed that the signal system was operating properly and then the finding of the Commission in regard to the misidentification or the improper identification.

"Apparently the fireman of No. 74 was mistaken as to the indication of signal 672-E, and the fact that the forestalling whistle did not sound as the locomotive passed the defective inductor undoubtedly confirmed his impression that the indication of the signal had changed to proceed."

Had you forgotten that finding?

A No, I had not.

Q Then, the final findings of the Interstate Commerce Commission, at page 13:

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D.W. Tucker

"We find that:

1. The signals involved in the accident were operating properly at the time of the accident.

2. The automatic train stop inductor at signal 672-E was defective.

3. The accident was caused by failure to operate No. 74 in accordance with the indications of signals 672-E and 662-E.

4. The failure of the automatic train stop system to function as intended as No. 74 passed signal 672-E was a contributory factor in the cause of the accident.

By the Commission, Division 3."

THE CHAIRMAN: Well, my impression while Mr. Tucker was giving his evidence in chief was that this whole thing amounted to the two men in the cab not seeing the yellow signal, and I think you disagreed with that at the time. If the signal was red as they approached it and was operating properly -- was yellow, I mean, and was operating properly, the next one they got was red, does that not mean that they had passed a yellow signal?

THE WITNESS: You mean if the indication on the second signal was red it was

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D.W. Tucker

necessary that the other one was yellow?

BY THE CHAIRMAN:

Q No, do the facts disclose, according to the findings, do they not amount to this, that the signal in fact was yellow when the engine passed?

A The facts indicate that, yes.

Q Well, that means that the two men in the cab did not see the yellow warning signal?

A They took it for something else? I cannot say for that, because they said it was green.

Q I am asking you --

MR. SINCLAIR: They did not say it was green, witness, they said they thought it was green.

BY THE CHAIRMAN:

Q I am asking you if it does not mean that if, in fact, it was yellow, then they did not see it?

BY MR. SINCLAIR:

Q As they passed it, that is what the Chairman has in mind?

A As they passed the signal, that it was yellow?

BY THE CHAIRMAN:

Q If you start with the premise, as I understand that, in fact, it was yellow as they passed it, they simply did not see it?

H-6

D.W. Tucker

A That could be the case. I had in mind when I made the statement I did, a faulty indication.

BY MR. SINCLAIR:

Q But the tests disproved that, the finding of the Commission disproves that. The finding of the Commission was, as I read it to you just a minute ago, that the signal system was operating properly; is that not correct?

A Correct, but these tests were made afterward.

Q Well, do you think the Interstate Commerce Commission did not have justification for making that finding?

A I do not say that.

Q The only evidence we have is the evidence of the fireman who survived, and he said that he made a positive identification of a turn to green as they were just ready to go under it, and told the engineer that. That is his evidence?

A That is.

Q And that was caused by the engineer saying we did not get a whistle?

A No, I would not say that; that was his own sight.

THE CHAIRMAN: We are not deciding that case. The relevancy of it has to do with the interference of talking as between the

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D.W. Tucker

fireman and the engineer, and so on.

BY MR. SINCLAIR:

Q Mr. Tucker, I know, as an experienced engineman, you will agree that an unnecessary division of responsibility is a bad thing for train operations?

A Yes. You, I assume, speak of a division of authority?

Q Yes, a division of responsibility amongst the crew is bad for train operation?

A I could not agree to that, Mr. Sinclair, the responsibility is everyone's.

Q I say an unnecessary division of responsibility?

A That is right.

Q I know that the Commission wishes to rise at twelve, and I will finish with this witness before that or a few minutes after, if I may have your indulgence. Now, Mr. Tucker, a rather interesting little point: Yesterday, in regard to car body types, may I ask when did you last sit in the centre seat of a car body type diesel?

A I do not sit in the centre seat.

Q On the New York Central, are these seats not adjustable? Can they not be raised to meet the requirements of the man using them?

A To a certain extent, yes.

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D.W. Tucker

Q And are they not set off centre on the New York Central so that the large pane, the windshield, that the man looks through, is right ahead of him?

A You are speaking of car body types?

Q Yes?

A They are practically in the centre; I would not say exactly, but practically.

Q They are offset to the left?

A Slightly, they are.

Q And the purpose of the adjustment of the seat is to give the man there panoramic vision?

A I say that some seats are adjustable.

Q And when they are like that, the purpose of it is to give the man panoramic vision?

A That is correct.

Q Then, I understood you to say some road switchers on the New York Central only had one seat on each side, the road switcher type, the hooded type?

H-2 A No, I do not believe I said that.

Q I thought you said that some road switchers, that there was a type that only had one seat on the left side and the other one was in the centre?

A That is correct; I thought you meant there were only two seats altogether.

Q No?

A Excuse me.

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D.W. Tucker

Q In other words, they were designed and built, really, for two-man operation, plus another seat for convenience?

A I could not say as to the reason for that.

Q Wouldn't you think that would be it?

A No, because they are equipped with three seats.

Q But the design is set so there are not two people doing the job on the left-hand side?

A I would assume that because there is only one seat.

Q Apparently from the evidence there are some things in the United States that we do not find here, but you would know this. The brakemen on some of the roads have a separate compartment in the back of the tender on steam power?

A I have knowledge of that.

Feather
ZA

J-1

D.W. Tucker

Q Particularly on the southern roads it was quite an ordinary thing for the head trainman not to ride in the forward compartment?

A I cannot speak of southern roads as I have not had too much knowledge of the southern roads.

Q But you have heard of that?

A Not particularly southern roads; my experience has been with eastern railroads.

Q Then in the hand-fired days, Mr. Tucker, and you are a man who has shovelled a lot of coal in your day?

A I have.

Q You have shovelled Mikados, you have hand-fired Mikados?

A I have.

Q And Mallets?

A Not Mallets.

Q Compounds?

A Yes.

Q And when you were on those locomotives you were on the deck on some trips constantly?

A No, I would not say that.

Q You have read the evidence which members of your Brotherhood gave in proceedings where witness after witness has said that they were on

J-2

D.W. Tucker

the deck all the time, or relatively all the time; you know of those proceedings?

A I have read those proceedings, but I am speaking of my own personal knowledge.

Q You would not disagree with what was stated in those proceedings?

A I could not.

Q You are not prepared to tell this Commission that if the work was organized many of the cases where signals are now being given through the fireman could be given through the engineman?

A I would say that in probably some cases they could be.

Q And in other cases either fixed signals, radios or dual controls would solve the problem?

A Not in all cases, no.

Q You think there are exceptions to that, do you?

A I do.

Q Have you ever tested these various things?

A No, I have not, but from my knowledge of the operation I would say that in certain instances it could not be.

Q It is just a guess on your part until you **make** a test, is it not?

A It would be a very experienced guess.

J-3

D.W. Tucker

Q An experienced estimate. Thank you
very much.

MR. LEWIS: What lawyers call an
educated guess. I have no questions,
Mr. Chairman.

----The Commission adjourned at 12.05 p.m.
until 10.00 a.m., Monday, June 3, 1957.

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